

**THE
INDIAN REGISTRATION ACT.**

**THE
LAW AND PRACTICE
OF
REGISTRATION IN INDIA
Act XVI of 1908.**

**COMPRISING
A SHORT HISTORY OF THE LEGISLATION ON THIS BRANCH OF THE LAW
FROM THE YEAR 1793 TO THE PRESENT TIME, WITH ACTS XVI
OF 1864, XX OF 1866 AND VIII OF 1871
WITH NOTES, ANNOTATIONS AND
JUDICIAL DECISIONS**

**SECTIONS FROM THE TRANSFER OF PROPERTY ACT AND OTHER ACTS
WHICH AFFECT REGISTRATION, WITH NOTES AND THE LATEST
REVISED RULES AND NOTIFICATIONS AND RULES OF
THE BENGAL, BOMBAY, BURMA, THE PUNJAB
AND OTHER GOVERNMENTS
HAVE ALSO BEEN
ADDED.**

**BY
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**SECOND EDITION. •
THOROUGHLY REVISED AND BROUGHT UP TO-DATE.**

**Calcutta :
RAI M. C. SARKAR BAHADUR & SONS
75-1-1, Harrison Road,**

**PRINTED BY S. P. DAS AT THE WEEKLY NOTES PRINTING WORKS,
3, HASTINGS STREET.
CALCUTTA.**

**PUBLISHED BY P. C. SARKAR,
75/1/1, HARRISON ROAD,
CALCUTTA.**

PREFACE TO THE SECOND EDITION.

After very great delay caused by press difficulties and the illness of the gentleman who had kindly undertaken to see the book through the press, this revised edition of the Law and Practice of Registration is now offered to the Public and Profession in a slightly different form.

The work has been extended so as to include the Practice of all the principal Provinces in India and a complete digest of cases bearing on the Law of Registration has been incorporated in the form of notes to each section. I hope it will thereby be of more service to the legal profession. The first edition was intended more as a guide to the officers of the department in Bengal of which I was then the head. But the work was so kindly accepted by the profession that I have thought it my duty to bring it into line with other annotated editions intended for the use of lawyers.

My thanks are due to Babu Hari Bhushun Mukerji, Vakil, High Court, Calcutta, for his kind assistance in bringing the work up to date and also to the Hon'ble Rai Priyanath Mookerji Bahadur, Inspector-General of Registration, Bengal, in allowing rules and circular orders to be inserted in the book.

CALCUTTA :
August, 1914. }

H. HOLMWOOD.

PREFACE TO THE FIRST EDITION.

IN presenting this book to the public, I trust that it will meet a want I have often heard expressed of a handy volume which will contain between its covers all the stamp law, procedure, rules and judicial decisions necessary to the valid and correct registration of title deeds and valuable securities and to the determination of their evidential value after registration.

The subject is a large and complicated one, and in order, as far as possible, to simplify it, I have not attempted to give a complete Digest of all the judicial decisions under the Registration Acts beneath each section, but have endeavoured to cite only the principal authorities on each point and to give the gist of the law as now laid down relegating the great mass of decisions, many of which are conflicting and many unimportant, to a general table at the beginning of the volume, in which will be found, I believe, every reported decision up to the end of 1894 on the Indian Registration Acts, arranged in order of sections for ready reference.

A short, but I hope fairly complete, Digest of Stamp Rulings and a correct Manual of the Rules and Circulars both under the Indian Registration Act and the Bengal Tenancy Act, which though sold at the Bengal Secretariat Press have not, I find, got into general circulation, to the great inconvenience of legal practitioners, will, I trust, prove of service to them and to the public, while the official list of districts and sub-districts with their included thannahs and outposts will assist executants in finding the proper office in which to register their deeds. My acknowledgments are due to the Hon'ble Mr. Justice Beverley for his kind permission to refer to his Manual of Registration of 1872, to the Hon'ble Mr. Justice Rampini for a similar permission in regard to Mr. Finucane's and his valuable notes on the Bengal Tenancy Act, and to Mr. J. G. Ritchie, I. C. S., whose labours, when Inspector-General of Registration, in compiling a complete and well arranged collection of the Rules and Circulars of the Department, which was unfortunately never published, alone enabled me to carry out successfully the orders of the Bengal Government to publish a full and correct Manual for the use of the Registration Department, which is now incorporated in this book. Finally, I offer this work more as a Handbook of digested information on the Law and Practice of Registration in Bengal than as having any pretensions to be an authoritative or exhaustive treatise on this particular branch of law.

H. HOLMWOOD.

GAYA,
May 15th, 1895.

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ABBREVIATIONS.

A. C.	... Appellate Civil Jurisdiction.
A. Cr.	... " Criminal Jurisdiction.
All.	... Indian Law Reports, Allahabad Series.
A. L. J.	... Allahabad Law Journal.
A. W. N.	... Allahabad Weekly Notes.
Agra.	... Agra High Court Reports.
Ap.	... Appendix.
Art.	... Article.
B. G. G.	... Bombay Government Gazette.
B. G. notn.	... " " Notification.
B. G. R.	... " " Resolution.
B. L. R.	... Bengal Law Reports (1868—75).
Beav.	... Bevan's Reports.
Bom.	... Indian Law Reports, Bombay Series.
Bom. H. C.	... Bombay High Court Reports, (1862-75).
Bom. L. R.	... Bombay Law Reporter.
Bur. L. R.	... Burma Law Reporter.
C.	... Chapter
C. J.	... Chief Justice.
C. L. R.	... Calcutta Law Reports (1877—84).
C. O.	... Circular Order.
C. P. L. R.	... Central Provinces Law Reports.
Cal.	... Indian Law Reports, Calcutta Series.
Cal. Gaz.	... Calcutta Gazette.
C. L. J.	... Calcutta Law Journal.
C. W. N.	... Calcutta Weekly Notes.
Cl.	... Clause.
Cls.	... Clauses.
Cr. C.	... Crown Cases.
Crim. L. J.	... Criminal Law Journal.
F. B.	... Full Bench.
G. R.	... Bombay Government Resolution.
Gaz.	... Gazette
H. D.	... Home Department.
I. G.	... Gazette of India.
I. G. Letter.	... India Government Letter.
I. R. A.	... Indian Registration Act, 1908.
Ind. Cas.	... Indian Cases.
Ind. Jur.	... Indian Jurist.
J.	... Justice
JJ.	... Justices.
L. B. R.	... Lower Burma Rulings.
L.	... Law Reports.
L. R., Ch App.	... Law Reports, Chancery Appeals.
L. R., Ch D	... Law Reports, Chancery Division.
" Ex D.	... " Exchequer Division.
" H L.	... " House of Lords Cases.
" I. A.	... " Indian Appeals.
" Q B.	... " Queen's Bench Division.
M. L. J. R.	... Madras Law Journal Reports.

M. L. T.	... Madras Law Times.
Mad.	... Indian Law Reports, Madras Series.
Mad. C. O.	... Madras Circular Order.
Mad. Govt. Notn.	... Madras Government Notification.
Mad. Govt. O.	... " " Order.
Mad. H. C.	... Madras High Court Report (1862—75).
Mad. Regn. Cir.	... Madras Registration Circular.
Mad. Regn. Dept.	... " " Department.
Mad. Regn. Rule	... " " Rule.
Marsh.	... Marshall's Reports.
Moore's I. A.	... Moore's Indian Appeals (1836—72).
N L R.	... Nagpur Law Reports.
N. S.	... New Series.
N. W. P.	... North-Western Provinces High Court
	Reports (1869—75).
N. W. P. Gaz.	... North-Western Provinces Gazette.
Notn.	... Notification.
P.	... Page.
P. C.	... Privy Council
P. J.	... Printed Judgments of the Bombay
	High Court.
Punj. Govt. Notn.	... Punjab Government Notification.
Pt.	... Part.
Punj. L. R.	... Punjab Law Reporter.
Punj. Rec.	... Punjab Record.
Punj. Regn. Cir.	... Punjab Registration Circular.
R. D.	... Revenue Department.
Reg.	... Regulation.
Regn.	... Registration.
Regs.	... Regulations.
S.	... Section.
Sch.	... Schedule.
Ss.	... Sections.
Stat.	... Statute.
Sup. Vol.	... Supplementary Volume.
Suth. P. C.	... Sutherland's Privy Council Judgments.
W. R.	... Sutherland's Weekly Reporter (1864—76)
	Civil Rulings.
W. R., Cr. Rul.	... Sutherland's Weekly Reporter, Criminal
	Rulings.
W. R., Misc.	... Sutherland's Weekly Reporter, Miscella-
	neous Appeals.
W. R., S. N.	... Sutherland's Weekly Reporter, Special
	Number
W & T. I., C.	... White and Tudor's Leading Cases.

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STATEMENT OF OBJECTS AND REASONS.

(*Gazette of India, 8th August, 1908, Pt. V, pp. 325-6.*)

1. This is a pure consolidating Bill. The provisions relating to the registration of documents are now scattered about in seven enactments. The object of the present Bill is to collect these provisions and to incorporate them in one Act. This will make the law more easily ascertainable. It will further clear the Statute-book of three entire Acts and will enable two more Acts to be entirely removed from it on the coming into force of the Code of Civil Procedure, 1908, and of the Indian Limitation Bill,* now before Council.

2. The fact that the General Clauses Act, 1897, will apply to the Bill when passed has rendered it unnecessary to retain some provisions of the present Acts. The opportunity has been taken to incorporate alterations of a formal character intended merely to improve and simplify the language of the existing Act. The numbering of the sections of the Act of 1877 has been preserved.

3. It has been found that the mere process of consolidation might result in the law being changed in some respects. To avoid this some few amendments appear to be necessary, and to these reference is made in the *Notes on Clauses* below.

4. A table showing the disposal of the sections of the Act is appended to the Statement.

H. ERLE RICHARDS.

The 22nd July, 1908.

Notes on Clauses.

Clause 46.—Section 46 of the Act saves the provisions of section 259 of the Indian Succession Act, 1865, relating to the filing and preservation of wills in the Court of District Judges and Delegates. Exactly the same provisions have since been enacted in section 81 of the Probate and Administration Act, 1881, in respects of wills to which the Succession Act does not apply; these provisions being contained in a later enactment are not affected by the provisions of the Registration Act to the contrary. To avoid any question as to the effect of the re-enactment of the law relating to registration and to preserve the law unaltered, the provisions of section 81 of the Probate and Administration Act have been expressly saved by introducing a reference to that enactment in the clause.

Clause 49.—The words "in accordance with the provisions of this Act" occurring at the end of section 49 of the Act may give rise to some difficulty, if they are retained in this clause. No doubt seems ever to have been cast on the view that under the law, as it stands, documents prior to the Act of 1877, if registered in accordance with the law for the time being in force, are not rendered inoperative or inadmissible in evidence by this section. Regard being had, however, to the terms of clause 17, which reproduces section 17 of the Act, a strict adherence to the definition of the word "registered" contained in the General Clauses Act, section 3 (45), might lead to a construction of clause 49 which would make these documents inoperative and inadmissible, if the words quoted above are retained. They have accordingly been omitted.

Clause 50.—The words "if duly registered" in section 50 of the Act have been interpreted by the Bombay High Court to mean "registered under this Act" so that an unregistered document of which registration is optional would be avoided by a later registered document of which registration is compulsory only if the latter document has been registered under the Act of 1877 (*Shivram v. Soga*, I. L. R. 13 Bom. 229). The effect of leaving the words as they are, would be that by virtue of section 3 (45) of the General Clauses Act, 1897, they would mean "registered under the law for the time being in force." Accordingly, a document registered under any Act prior to the Act of 1877 would acquire priority over a previous unregistered document. This would alter the law as interpreted in Bombay, but as it is not quite clear what is the view taken of the section by the other High Courts, the wording of the section has been left unaltered for the present. Attention is invited to this point.

* See now Act IX of 1908.

Clause 93 (2).—The provisions of the Act relating to optional registration have to a great extent been superseded by the provisions of sections 54 and 59 of the Transfer of Property Act, 1882, in cases to which that Act extends. Special provisions relating to the registration of certain documents are also contained in some other later enactments, as, for instance, in section 12 of the Bengal Tenancy Act. Clause 93 (2) is inserted to make it clear beyond doubt that the re-enactment of these partially superseded provisions of the Registration Act is not intended to effect any alteration in the existing law.

PROCEEDING : OF THE LEGISLATIVE COUNCIL.

(*Gazette of India, 8th August, 1908, Pt. VI, pp. 146-8.*)

The Hon'ble MR. ERLE RICHARDS :—"I move, my Lord, for leave to introduce a Bill to consolidate the law relating to Ports and Port-charges. This Bill is of the same character as two other Bills* to which subsequent motions on the paper relate. They are, all three of them, Bills to consolidate the law."

* * * * *

"Consolidation, my Lord, may take two forms ; there may be consolidation with amendments of substance, or there may be consolidation, pure and simple, that is, without any amendments of substance."

* * * * *

"The present Bills, my Lord, are examples of the second method of consolidation which is not open to the objections to which I have just referred, and I invite the attention of Council to the matter, because they are the first Bills of the kind which have been introduced into the Legislative Council of India. They are intended to collect and re-enact the law without any changes of substance. There must in any re-enactment be some small alterations of wording ; there are differences of style in the existing Acts, and those Acts often speak in different language, because a different General Clauses Act or different rules of construction were in force at the time they were passed. But these Bills are intended to reproduce the existing enactments with such alterations only as are required for uniformity of expression and adaptation of existing practice ; they are not intended to embody any substantial amendments of law. It is a temptation to every one to suggest amendments when a Bill is before this Council, but that temptation is one which, I hope, in the present instance, we shall sternly resist ; once the door is opened to any one amendment of substance, it will be impossible to decline to discuss other amendments of a like kind and the Bills will then cease to be mere consolidating measures."

"These three Bills, my Lord, collect and re-enact the law relating to the three subjects of Ports and Port-charges, Registration of Documents and Emigration of Natives of India. That law is now scattered about in no less than 21 enactments. If these Bills be passed, the law on each of these subjects respectively will be contained in one Act—and one Act only—and we shall have reduced the number of statutes on our statute-book by fifteen. It is a modest improvement, my Lord, but still it is an improvement worth making."

INDIAN REGISTRATION BILL.

The Hon'ble MR. ERLE RICHARDS moved for leave to introduce a Bill to consolidate the law relating to the Registration of documents. He said :—"On this Bill there is one point of some little doubt. It arises on clause 50. It is explained in the Statement of Object and Reasons, and I will not refer to it further now. It is a point which will have to be settled in Select Committee."

The motion was put and agreed to.

The Hon'ble MR. ERLE RICHARDS introduced the Bill.

* i.e., The Indian Registration Bill and the Indian Emigration Bill.

REPORT OF THE SELECT COMMITTEE.

(*Gazette of India, 12th December, 1908, Pt. V, pp. 387-8.*)

The following Report of the Select Committee on the Bill to consolidate the enactments relating to the Registration of Documents was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 11th December, 1908 :—

We, the undersigned, Members of the Select Committee to which the Bill to consolidate the enactments relating to the Registration of Documents was referred, have considered the Bill and the papers noted in the margin,* and have now the honour to submit this our Report, with the Bill as amended by us annexed thereto.

2. We observe that the extent clause in the Bill includes Upper Burma to which the Present Registration Act does not apply. It is not intended to alter or affect the registration Law of Upper Burma, but as there would be power under the clause for the Local Government to exclude any tracts of country from the operation of the Act, we do not think it necessary or desirable to introduce any special exception into the clause, but would suggest that the exclusion of Upper Burma may be left to be effected by an order of the Government of Burma.

3. We recommend that the Bill should come into operation on the 1st January, 1909.

4. We have suggested an addition to clause 50 to meet the difficulty pointed out in the Statement of Objects and Reasons. Section 50 of the Registration Act of 1877 conferred priority for the first time on certain documents if duly registered and the section has been construed in Calcutta at least as covering documents registered under any Act for the time being in force, while in Bombay and certain other provinces it has been read as limited to documents registered under the Act of 1877 and under that Act alone. Clause 50 of the Bill reproduces section 50 of the Act of 1877, but the provisions of section 3 (45) of the General Clauses Act, 1897, which would apply to the Bill when passed, would negative the construction put on the section in Bombay. The Government of Bombay is willing to accept this alteration, but objection has been taken to it in the other provinces on the ground that it would confer on documents registered before the Act of 1877 a priority which they do not at present possess. To remove this objection we have proposed to add to sub-clause (2) a provision which would keep these documents in the same position as regards priority as they occupy under the law at present.

5. The other alterations suggested by us are of a formal or unimportant character and do not call for any explanation.

6. In the papers submitted to us we find various suggestions for alterations of substance in the law of registration, and these we have forwarded to the Administrative Departments concerned for their consideration. This Bill is a consolidating Bill, pure and simple, and though it is inevitable that when such a Bill is put forward, amendment should be suggested, we think that they should not be entertained. If on examination the amendments meet with approval, they will have to be circulated for the opinion of Local Governments and others, and this will be a lengthy process. The consolidation effected by this Bill will not prevent a subsequent amending Bill; on the contrary it will greatly facilitate its passage.

7. The publication ordered by the Council has been made.

We think that the Bill has not been so altered as to require re-publication, and we recommend that it be passed as now amended.

H. ERLE RICHARDS.

H. ADAMSON.

RASH BEHARI GHOSE.

N. C. MACLEOD.

The 10th December, 1908.

* The list of papers noted in the margin has been omitted.

PROCEEDINGS OF LEGISLATIVE COUNCIL.

(*Gazette of India, 12th December, 1908, Pt. VI, p. 182*).

The Hon'ble MR. ERLE RICHARDS moved that the Report of the Select Committee on the Bill to consolidate the law relating to the Registration of Documents be taken into consideration. He said—"This, my Lord, is also a consolidating Bill and I have no observations to make beyond saying that on one point to which attention was called in this Council on a former occasion, the Committee have inserted a small amendment to preserve the existing law as it now stands in all the Provinces."

The motion was put and agreed to.

The Hon'ble MR. ERLE RICHARDS moved that the Bill, as amended, be passed

The motion was put and agreed to.



PART I.

INTRODUCTION.

ON THE HISTORY OF REGISTRATION IN BENGAL.

PART I.
Introduction.

THE history of the various Regulations and Acts connected with Registration is important both to the legal student and to the public, because the course of legislation and the various additions and amendments made from time to time in the law are the only means of gauging the intention of the Legislature which has to be considered in questions of interpretation; the authenticity of any document registered under the old repealed Regulations and Acts may depend on its being in the form prescribed by the Regulation or Act under which it was registered, and the genuineness of an alleged copy can alone be determined by its fulfilling the conditions laid down for copies at the time it is said to have been made.

Regulation XXXVI of 1793, the oldest statute in Bengal on the subject, is designated, "A Regulation for establishing a Registry for Wills, and Deeds, for the Transfer of Mortgage of Real Property." Its declared object was to give security to the titles and rights of persons purchasing real property, or receiving such property in gift, or advancing money on the mortgage of it, or taking it on lease or other limited assignment; to prevent individuals being defrauded by buying, or receiving in gift, or lending money on mortgage, or taking on lease any such property that may have been so previously disposed of or pledged; to afford persons the means of obviating, as far as may be practicable, litigation respecting the authenticity of their Wills, or any written authority they may grant to their wives to adopt sons after their death; and that individuals may be able to provide against any injury to their rights or property, by the loss or destruction of deeds relating to transactions of the nature of those above specified.

PART I.
Introduction.

An office for the registry of deeds was to be established in each Zillah, and in the cities of Patna, Dacca and Moorsshedabad. The superintendence was committed to the registrar (*sic*) of the Court of Dewanny Adawlut in each Zillah or City who had to take and subscribe an oath of fidelity previous to his entering on the duties of his office.

The *Registrar*, as we shall henceforth call him, was authorized and required to register memorials of—

- (i) Deeds of sale or gift of lands, houses, or other real property.
- (ii) Deeds of mortgage on the same, as well as certificates of the discharge of such incumbrances.
- (iii) Leases and limited assignments of land, houses, and other real property, including generally all conveyances used for the temporary transfer of real property.
- (iv) *Wusseeatnamahs* or Wills.
- (v) Written authorities from husbands to their wives to adopt sons after their (the husband's) demise.

Registration was left optional for all the above deeds executed prior to 1st January 1796, and non-registration was in nowise to operate to the prejudice of the rights of the parties thereto.

Registration under the last clauses (iii, iv, v, above) was left optional without any limit of time.

Deeds of sale or gift of the property mentioned above, executed subsequently to 1st of January 1796, were, if duly registered, to invalidate any other deed of sale or gift for the same property executed subsequent to the said date and unregistered, whether the execution of the latter was prior or subsequent to the registered deed, provided the authenticity of the latter was established to the satisfaction of the Court.

Deeds of mortgage were similarly to be discharged if duly registered in preference to mortgages granted subsequent to 1st January 1796 and not registered.

A saving clause was, however, inserted against deeds knowingly registered in the face of previous unregistered incumbrances. This clause was repealed by Act I of 1843, as limited by Act XIX

of 1843, which, instead of applying the repeal to every conveyance or other instrument affecting land as Act I did, specified the same documents in the same words as Regulation XXXVI of 1793, clauses i and ii above quoted.

PART I.
Introduction

Registry of all deeds was to be made in the office of the zillah or city in which the property affected by them was situated; and if the property was in more than one jurisdiction, the deeds were to be registered in each office concerned.*

Each species of deed was to be registered in a separate book, each leaf of which was to be paged, and attested by the Judge, who was to note in his own handwriting on the last page of each book, the number of pages contained in each book, and attest the note with his official signature. No register shall be deemed authentic excepting such as shall be so paged and attested.

Every deed entered in a register book was to be numbered, and the date of the month and the year, as well as the time of the day when every deed might be registered, was to be noted in the margin of the register-books, which were to be deposited among the records of the Dewanuy Adawlut.

The forms to be observed in the registry of deeds were as under :—

The person or persons executing the deed or his or their authorized representative, with one or more witnesses to the execution of it, had to attend at the Registrar's office and prove, by *oath* before the Registrar, the due execution of the deed: upon which the Registrar caused an exact copy of the deed to be entered in the proper Register-book, and after having caused it to be carefully compared with the original, attested the copy with his signature and caused the parties or their representatives to subscribe their signatures to the copy, in the presence of two creditable witnesses (who also signed their names), and then returned the original with a certificate under his signature endorsed thereon specifying the date and the time of the day on which such deed was registered, with references to the book containing the registry thereof, and the page and number under which it was entered.

* Modified by the provisions of Act IV of 1815.

PART I.
Introduction.

This certificate was sufficient evidence of the registry. The Registrar was to allow all persons to inspect the register-books on application, and to grant copies of all deeds to persons whom they might concern ; and such copies in the event of the originals being lost, destroyed or not forthcoming, shall be received as sufficient evidence of such deeds, proof being made by the subscribing witnesses to the original deed that the original was duly executed. Section XII provided for the criminal prosecution of persons counterfeiting or falsifying entries in the register-books or certificates. The same rule for the hours of attendance was laid down as is still in force.

The Registrar was allowed a fee of two rupees for every deed registered by him and no more : a fee of one rupee for every copy furnished of a deed registered by him, and a fee of half a rupee for every search. He was authorized to refuse the official acts required from him till these fees were paid, and from such fees he had to provide the necessary native officers to make the entries and copies directed, as well as the requisite stationery.

Registrars might appoint deputies to act for them under certain circumstances.* A translation of this Regulation was supplied to all Kazis in Persian or Bengali. By Regulation XXXIX of 1793 a Kaziul-Kazaat or Head Kazi of Bengal, Behar and Orissa and the Kazis stationed in the several districts were appointed, and their respective duties prescribed as below :—

Kazis are stationed at the cities of Patna, Dacca and Moorsheda-
bad, and the principal towns and in the pergunnahs for the purpose
of preparing and attesting deeds of transfer and other law papers,
celebrating marriages, and performing such religious duties or cere-
monies prescribed by the Mahomedan Law, as have been hitherto
discharged by them under the British Government, and also for
superintending the sale of distrained property and paying charitable
and other pensions and allowances under Regulations XVII and
XXIV, 1793.† They were appointed during good conduct and were

* See sec. II, Reg. IV, 1824 superseded by A XXX of 1838 in respect of officers appointed under that Act.

† See Act XI of 1831. The rules are largely modified and amended by the rules prescribed in sec. II, Reg. XX of 1812.

given a seal. The Kazis were nominated by the Zillah or City Court Judge and approved by the Head Kazi, who finally submitted the name of the candidate to the Governor-General. The office was declared by this Regulation not to be hereditary. The Head Kazi and Kazis stationed in the cities, pergunnah and town, were to keep copies of all deeds, and law or other papers, which they may draw up or attest, and were to affix thereto their seals and signatures. They were likewise to keep a list of all such papers; and in the event of their death, resignation or removal, the list and papers were to be delivered complete to their successors. They were to take no fees except such as were voluntarily given and were liable to be sued in the Dewanny Adawlut for any undue practices.

They thus combined the functions of a rural Sub-Registrar with those of a Kazi under Act XII of 1880, and their records are still preserved where extant in the District Registry Offices in Bengal. There does not appear to have been any evidential value attached to the fact of registration before a Kazi, but of course his attestation where it could be proved to be genuine was evidence of the *bond fide* execution of the deed.

Their duties in regard to distrained property were abrogated by Act I of 1839.

Regulation XXVIII of 1795 extended registration under Regulation XXXVI of 1793 to the province of Benares.

Similarly, Regulation XLIX of 1795 extended the jurisdiction of Kazi-ul-Kazaat to the province of Benares.

Regulation XVII of 1803 re-enacted the whole of Regulation XXXVI of 1793, so as to make the provisions of the law of registration part of the General Code drawn up in 1803.

Regulation VIII of 1805 extended Regulation XVII of 1803 to the ceded and conquered provinces within the Doonab, &c., and made additional provisions to be in force in those provinces only. These provisions were rescinded by Regulation XXIV of 1814.

By Regulation XII of 1805, Regulation XXXVI of 1793 was extended to Cuttack, substituting the 1st January 1808 for the 1st January 1796, wherever it occurs in that Regulation.

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Regulation XX of 1812 was enacted because inconvenience had been experienced from the delay attendant on the forms previously established for registering deeds ; and to obviate disputes and prevent frauds in the performance of engagements for the delivery of indigo by affording to the parties, or either of them, the means of registering such engagements ; also for the establishment of a separate register of obligations for the payment of money.

Under this Regulation the procedure in registration was as under. Whenever any person might be desirous of procuring any deed of the description of those specified in section 3, Regulation XXXVI, 1793, and in the corresponding rules of Regulation XVII of 1803 to be registered, he was to attend, either in person or by an authorized representative at the office of the Registrar with the original deed, and an exact copy of it attested by at least one of the parties to the instrument and by one of the witnesses to the execution of it. The Registrar, after having adopted the prescribed measures for ascertaining the validity of the original, and having compared it with the copy, was, without loss of time, to specify on the back of the latter, the date and hour of the day on which it was presented for the purpose of being registered, and cause it to be filed according to the order of time in which it might have been received, and entered in the register-book according to the same order, certifying in the said book the day and hour on which the entry was completed and inspected by him.

On completion of the entry in the manner above stated, the Registrar was to return the original deed to the person from whom it may have been received, with a certificate under his signature endorsed on the deed, specifying the date and the hour of the day on which it was registered, and the page on which it was entered in the register-book.

The entry in the register was, in all practicable cases, to be made at the time of endorsing the copy required to be furnished ; but the insertion of it could on no account be postponed beyond the day on which the endorsement might be made.

The Registrar was, on application, to allow all persons to inspect the copies of deeds attested, endorsed, and filed in the manner described, as well as the register-books.

He was in like manner on application to grant copies of all engagements registered by him to persons whom they might concern; and such copies, in the event of the originals being lost, destroyed, or not forthcoming, might be received as sufficient evidence of such deeds in all Courts of Judicature whatever, proof being made by the subscribing witnesses that the original was duly executed.

By this Regulation, apparently, not only counterparts were preserved, but copies also made in the register-books, and an attention to punctuality, which had only recently been revived in the Department in 1890 rigidly laid down. Secondly, the Registrar was required from and after the 1st of January 1813, corresponding with the 19th Pousse 1219, Bengal era; the 14th Pousse 1220, Fussily; the 20 Pousse 1220 Willaity; the 14th Pousse, 1869 Sumbut, and the 27th Teheza, 1227 Higeree, to register engagements contracted by indigo planters, whether Europeans or Natives, with the ryots and others for the delivery of the indigo plant. A separate register was to be kept for this purpose and registration was optional, but every engagement contracted for the delivery of indigo after the 1st of January 1813 duly registered shall, in case it be in other respects a legal and *bonâ fide* engagement, be satisfied in preference to every other contract for the delivery of indigo, being the produce of the same ground, which may not have been registered whether the last mentioned deed had been executed previously or subsequently to the registered deed.

The rules for registration were the same as those given
 See Act V of 1840. above for other deeds, as also as to their
 evidential value and as to the granting
 of search and copies.

The fees were the same as under Regulation XXXVI of 1793.

Thirdly, the Registrar from the same date was authorized and
 Modified by sec. 5, Act XXX required to register bonds, promissory
 of 1838. notes and generally all obligations for
 the payment of money, but only on the application of the executant. A separate register-book was to be kept for this also, and the rules were the same as above.

The attestation of the Zillah Judge on each leaf of the different register-books was rescinded.

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The endorsement on copies of deeds kept under this Regulation and the transcripts thereof in the register-books were to be countersigned by the Judge within one month of the date of registry, or if he was absent within one month after his return.

At the time of signature he was to report to the Secretary to Government in the Judicial Department any errors or irregularities, or any deviation from the established regulations which he may have discovered in the conduct of the business confided to the Registrar of Deeds or to his Native officers.

No deeds except those specified under Regulation XXXVI of 1793, Regulation XVII of 1803 and this Regulation were to be registered, and the registers were to be uniformly made of English paper and carefully bound.

It is an interesting circumstance that this provision for the use of English paper was only rescinded in the year 1892, when it was found that machine-made paper from the local mills was as well, if not better, suited for registration purposes than the hand-laid English medium paper.

It was now made the duty of the Registrars to keep an accurate account, in the English language, of the fees received by them on account of the registry of Deeds.

This universal use of English in all matters of account in the Registration Department was only revived in 1891.

An index to the register-books to be prepared as soon after the expiration of each English year as possible was also prescribed.

The Registrars were also required not only to preserve with care the powers-of-attorney produced by representatives, but likewise to cause all such powers to be entered in a separate book to be kept for that purpose.

A partial return to this practice has been found to be necessary and it has been secured by insisting on a very full precis of all powers being given in the abstract required by law in the register of authentication of powers-of-attorney.

By Regulation IV of 1824 the provisions of Regulation XXXVI of 1793 were amended as far as the appointment of deputies was

concerned. The Deputy like the Zillah Court Registrar must be a covenanted servant, and if the Registrar omitted to appoint a Deputy in his absence, it was the duty of the Zillah Judge to appoint one, or, if there was no qualified person, to act himself.

This had apparently been the practice before, since the registry of previous deeds by the District Judge or other covenanted servant appointed with his sanction is by this Regulation declared valid.

The Deputy or Officiating Registrar received the fees laid down under the Regulations, but if the Judge acted himself, the fees were credited to Government.

The effect of these old Regulations can still be traced in paras. 20 and 21 of the Departmental Orders.

By Regulation VII of 1832 the Judge was empowered to make over the registration of deeds to the principal Sudder Ameen with the previous consent of the Governor-General in Council.

This completes the Regulations referring to registration proper. Before passing on to the Acts which have modified and rescinded the Regulations, it will be well to take a brief survey of the parallel question of Stamp Law as it existed up to the end of 1834.

Regulation X of 1829, which is the first consolidating Regulation relating to the collection of stamp duties, rescinded Regulation I of 1814, Regulation XVI of 1824 and the Regulations thereby rescinded.

All stamp duties were to be levied in accordance with Schedule A of this Regulation, and no instrument liable to stamp duty could be pleaded, given or admitted in evidence, or otherwise received or filed in any Court of Judicature or other public office, unless stamped with the prescribed stamp. No exception, however, was to be taken to deeds over stamped, nor to prior deeds, if stamped, as prescribed at the date of execution.

There was also a saving of the Calcutta stamp die when impressed on deeds intended to have effect in the interior.

Reg. XII of 1826 regulated the Stamp Law in Calcutta.

Only certain kinds of stamped paper were required to bear the authentication of signature by an assistant to the Superintendent of Stamps, but any vendor selling these without authentication could be fined Rs. 100.

PART I.
Introduction.

A Board or Commission of Control and a Stamp Office under the Superintendent were to be established. Various previous provisions were made for original stamping at the Stamp Office, counter-stamps of the same values, supply of Collectors by indent, custody of stamps, appointment of vendors, and changing the dies from time to time.

The stamps were transferable, but the stamp vendors' endorsements were much the same as they are now.

On the Collector's receipt private parties could have their paper stamped by the Superintendent.

Four per cent. discount was allowed on purchases to the value of Rs 500 and upwards.

Soiled or spoiled stamps of the value of Rs. 10 and upwards could be replaced if application was made within six weeks of the damage.

Various penalties were prescribed for producing unendorsed or forged stamps, and documents unstamped through inadvertence could be stamped on payment of certain penalties.

Similar penalties were imposed on vakeels under provisions which would now be included in the Court-Fees Act.

Revenue Officers were empowered to administer oaths in stamp cases, and to make over offenders to the civil authorities for imprisonment. The Superintendent of Stamps was vested with the powers of a Collector when moving about in the interior.

No general principles such as are now laid down in the Stamp Act were given in this Regulation.

There were two Schedules, A, and B, to this Regulation. Schedule A corresponded to Schedule I of the present Stamp Act, while Schedule B took the place of the schedule attached to the Court-Fees Act.

Act XXX of 1838 provided for the establishment of additional registry offices at any civil stations to be placed under the superintendence of any officers resident at such stations whom Government might nominate for that purpose. The same fees were to be paid, but the rules for the appointment of deputies and the examination of

deeds and registers by the Judge laid down in the previous Regulations were not to apply to officers appointed under this Act.

Fees for the registry and transcription of deeds in any European language were to be charged according to the established rates of section-writing, in addition to the fees prescribed in regulation XXXVI of 1793.

Temporary appointments were to be made by the Zillah Judge or other officer specially authorized by Government.

The effect of Acts I and XIX of 1843 has already been shown, vide *supra*, p. 2.

Act IV of 1845 introduced the system of registering in other districts and forwarding copies to the districts in which any portion of the property was situated. It was of wider application than the present law and allowed registration in any office, whether such office was in the district where the property or any part thereof to which the deeds related was situated or not.

Copies attested as prescribed in Regulation XX of 1812 were to be sent to each district in which any of the property was situated and to be registered as if presented there.

The fee on the copy was to be the same as on the original.

The document was held to be duly registered at the office of presentation whether or not a copy thereof had been registered in all or any of the districts in which the property might be situated.

By Act XVIII of 1847 registry by officers not duly appointed and on other than Court days was declared valid with retrospective effect.

Act XI of 1851 provided for the custody of registers of offices established under Act XXX of 1838, among the records of the Magistrates or Joint-Magistrates in the Lower Provinces of Bengal and of the Collectors of the North-Western Provinces.

We now come to Act XVI of 1864, the first General Registration Act since Regulation XXXVI of 1793. This will be found printed *in extenso*, as amended by Act IX of 1865, in the Appendix to this chapter.

The Act is of 71 sections, of which two (25 and 40) were repealed by Act IX of 1865, the latter being re-enacted by the same Act.

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By this Act the whole of the Regulations and Acts noticed above were repealed as far as they related to registration, and all rules and regulations relating to the registration of assurances in the part of British India in which they were in force.

Definitions are given of "British India," "Local Government," "year" and "month," "section," "number," and "gender."

It will be observed that these are now mostly included in the General Clauses Act, and have nothing to do with registration in particular.

Section 5—12 treat of the registration establishment.

By this part a General Register Office under a Registrar-General appointed by the Local Government, who might simultaneously hold any other office, was established.

Districts (among which the Presidency-towns were reckoned) and sub-districts were provided for.

The Local Government might appoint such persons whether public officers or not to be District Registrars and to be Deputy Registrars of the sub-districts, provided that except in the Presidency towns no persons should at the same time hold both the office of District Registrar and Deputy Registrar.

Section 9 provided that there should be no appeal from the orders of a Registrar of a Presidency-town acting as Deputy Registrar under section 62.

The omission of this provision from Act III of 1877 seems to be a defect, as the Registrar of Calcutta still has in practice to hear appeals against his own orders as Sub-Registrar. Section 7 of Act III of 1877 does not of course make this illegal, but the position of the Registrar of Calcutta is now somewhat anomalous. Act XX of 1866 repealed Act XVI of 1864, and provided for an appeal from the orders passed by a Registrar as Sub-Registrar to the Registrar-General.

Act of VIII of 1871 repealed Act XX of 1866, and provided, section 73, that if the Registrar has himself as Sub-Registrar made an order of refusal, the claimant must apply by petition to the District Court (meaning the principal Civil Court of Original Jurisdiction) to establish his right to have the document registered.

Act III of 1877, which repealed Act VIII of 1871, is entirely silent on this point, and the Registrar of Calcutta now reviews his own orders in appeal.

This practice is no doubt not strictly legal, but, on the other hand, the remedies under Acts XX of 1866 and VIII of 1871 having been rescinded, there would be no remedy at all against the orders of the Registrar acting as Sub-Registrar in Calcutta, unless as Registrar he first reviewed and upheld his own order as Sub-Registrar, and as the words of section 7, Act III of 1877, cannot be interpreted as applying to the case of the Registrar of Calcutta, it seems to be the correct procedure to give the parties a *locus standi* in the Civil Courts by allowing the Registrar to so review his own orders as Sub-Registrar.

The provisions for temporary appointments, establishments and seals under Act IV of 1864 require no special notice.

The changes in the law of compulsory registration require to be carefully followed.

Section 13 of Act IV of 1864 made deeds of gift of immoveable property, leases of the same for any period exceeding one year, and instruments which purported or operated to create, declare, transfer or extinguish any right, title or interest of the value of Rs. 100 or upwards in any immoveable property and any instrument which acknowledged the receipt or payment of any consideration on account of such creation, &c., as above, incapable of being received in evidence in any civil proceeding in any Court, or of being acted upon by any public officer, with the exception of certain leases of land in Madras, the registration of which was optional.

By Act IX of 1865, instruments relating to shares in a Joint Stock Company, notwithstanding that the assets of such Company shall consist in whole or in part of immoveable property, were also excluded from the operation of this section.

Section 17, Act XX of 1866 (*vide* this Act printed *in extenso* in the Appendix to this chapter), declared that the instruments named in the section shall be registered, but gave no rule as to their evidential value. The instruments named are practically the same, and the proviso as to instruments relating to the shares of Joint

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Stock Companies given above, and a new proviso, by which the Local Governments of Bengal and the North-Western Provinces might exempt leases for a term of under two years, the annual rents reserved by which do not exceed Rs. 50, are added.

Section 17, Act VIII of 1871, re-enacted section 17, Act XX of 1866, with a few amendments, *viz*, the instruments in clauses 2 and 3, not being wills and leases of immoveable property from year to year or for any term exceeding one year, or reserving a yearly rent, are to be registered.

The Local Government may exempt, as in Act XX of 1866, leases for terms under five years with the same limit of annual rent reserved (*vide* this section printed with the Act *in extenso*, together with the notes attached to the Registration Manual of 1872, in the Appendix to this chapter).

Sections 49 of Act XX of 1866 and of Act VIII of 1871, which give the rule as to the evidential value of documents not registered when required by section 17 to be registered, are exactly the same as section 49 of the present law.

The cases and decisions of the Courts under these sections will be found fully discussed in the notes to section 17 and Part X of Act III of 1877.

For the purposes of Act XVI of 1864, the value of the right, title or interest in any immoveable property was to be taken to be the value indicated by the stamp affixed thereto under Act X of 1862.

This section can only be taken to refer to deeds in which no value is expressed (*vide* section 27, Act X of 1862, and Articles 17, 18, 49 [c] and 64, Schedule A to that Act).

It is a curious fact that although optional stamps were not abolished till the General Stamp Act I of 1869, no reference is found to this provision in Act XX of 1866.

A regular suit might be brought to enforce registration on the original refusal by a Deputy Registrar, although there was an appeal provided for by section 62 within 30 days of refusal.

There was no period of limitation fixed for the civil suit under section 14.

The registration of authorities to adopt was optional under this Act.

Twelve months were given to register deeds executed before this Act came into operation.

After the Act came into operation, all deeds, the registration of which was compulsory, must be presented within four months from the date of execution.

Optional registrations were to be made within two months, except wills and authorities to adopt, for the presentation of which there was no limitation.

Documents relating to immoveable property were to be registered in the sub-district where the property was situate ;

Those relating to moveable property either where executed, or at any office under the Local Government the executing parties might desire.

Provision was made for the registration of property situate in different sub-districts of the same district only, and copies had to be sent to each such sub-district, as well as to the sudder, and there registered.

Documents in a language unknown to the Deputy-Registrar were to be refused by the Deputy-Registrar, and the parties referred to the Registrar.

In the original Act of 1864, the Registrar-General could receive and register documents relating to property situate in different districts, but this was amended by Act IX of 1865, which provided the procedure on which the present law is based in addition to the discretionary action of the Registrar-General.

All the parties and their representatives with proper powers of attorney had to appear to admit execution, and instructions were laid down for the execution of powers by Native ladies.

By Act IX of 1865, the Registrar-General was empowered to certify the execution of such powers.

There was no period of limitation for appearance, but on their appearance a regular enquiry was made as to the execution by the parties and the status of representatives. All the parties had to

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enter appearance, and the registering officer had to be satisfied that they were the parties they represented themselves to be.

The name and address in full of every person examined touching the above matters was entered in the register-book. Witnesses could be summoned under the same provisions as in suits before Civil Courts.

The same rule as to interlineations, erasures or alterations existed as at present, but blanks are not noticed by the Act.

The endorsements were the date and hour of presentment—the names in full of the parties and their representatives; the name and address in full of every person giving evidence.

Any payment of money or delivery of goods made in the presence of the registering officer.

The parties had to sign the endorsement, and the instrument thus endorsed was *prima facie* proof that it had been duly registered, but the Courts could require further evidence of registration.

The order of presentation was the order of copying, an important difference from the present Act, where the order of admission is the order of copying.

After copying, documents were to be returned with a final endorsement as now, except that there is no provision for endorsing the date of registration.

Provision was made by this Act, as amended by Act IX of 1865, for an abstract in duplicate of deeds affecting immoveable property being sent to the District Registrar and Registrar-General.

This seems to have been the origin of the present system of memoranda.

The Civil Courts when declaring registration invalid or modifying any interest in immoveable property under an instrument were to send a memorandum which was to be noted by the registering officer in the margin of the register-book wherever any portion of the property was situated.

The provisions for the deposit of wills and authorities were practically the same as at present, but for withdrawal the depositor had to obtain the order of a Civil Court.

The provisions for opening and copying wills after the death of the testator were the same as now, except that apparently by careless drafting the death of the depositor is sufficient, although the depositor might be only an agent.

A special procedure was provided for recovering the amount secured by a bond without suit if an agreement were recorded to that effect before the registering officer.

A fee table was provided for on much the same lines as now, and all fees not used for payment of registering officers were to be sent to the prescribed treasury.

Four register-books were prescribed :—

- 1.—Register of absolute transfers of immoveable property.
- 2.—Register of other " " "
- 3.—Register of decrees and orders of Court and of awards of arbitration.
- 4.—General register of all other instruments registered under the Act.

The paging and numbering of these registers was practically the same as at present. If a document referred to both immoveable and moveable property, it was entered in Book IV, as well as in one of the first three books.

A personal and local index was kept for each register except Book IV, for which only the first was kept.

District Registrars kept in addition ;

Register of deposit of wills, &c. ;

Register of wills, &c., copied after the death of the depositors.

Subject to the payment of fees, every person could inspect and take copies of registers 1, 2, 3, and of the register of wills.

The general rules contained provisions for supervision by District Registrars and the Registrar-General, provision for visits on special cause shown, for recording reasons of refusal to register, time of operation of registered instruments, priority of registered instruments over unregistered documents relating to the same property, registration of Government documents, punishment for false statements before any officer acting in execution of this Act under section

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191; Indian Penal Code, and the operation of the Act from 1st January 1865.

Act XX of 1866 defined "lease," "will," "instrument," "obligation," "signature," "immoveable property," "moveable property," "book," "endorsement," "representative," "oath," "imprisonment," "person," "addition," besides the definitions given in Act XIV of 1864.

The definition of a lease is important as marking the divergence which has since been emphasised between the Stamp Law and the Registration Law in this respect.

The definition of a will is that which has had to be supplied to registering officers under the present law by means of a circular, being omitted from Act III of 1877.

The definition of an "obligation" is important, and should be noted.

The definitions of "immoveable" and "moveable" property are practically the same as under the present Act, with the addition of "hereditary allowances" and "ferries" to the former, and of "juice in trees" to the latter. "Addition" under this Act excluded caste and father's or mother's name as provided for in the case of a native under the present Act.

In Part II of the registration establishment, a curious provision was inserted that a sub-district might be situated partly in one district and partly in another. Deputy Registrars were to be henceforth styled Sub-Registrars. The Judge of the district was to act in the absence of the District Registrar if the Registrar-General appointed no one else. Otherwise there was not much alteration in the law under this heading.

Part III—"Of registrable documents"—has already been discussed above, p. 12.

Part IV—"Of the time of registration"—provided for the appearance of various executants at different times, and also for an extension of time on payment of twenty times the proper registration-fee.

In calculating the period of limitation, Sundays and holidays were not to be counted,

Part V—"Of the place of registration"—made no change in the law except that the Registrar might register any deed for a Sub-Registrar subordinate to him, and was to register wills and authorities to adopt.

In Part VI powers-of-attorney were more carefully classified, and a nearer approach to the present law was made in the provisions for admission of execution, though the period of limitation was still omitted, and the Registrar was to register a document on behalf of a person who was dead, even though his representatives denied execution if he was satisfied of the fact of execution.

Part VII—"Of enforcement of attendance of executants and witnesses"—was much the same as at present, except that Revenue Officers served the processes by law, while under the present Act the Local Government is empowered to name the agency to be employed. As a matter of fact, under Rule 80, processes under this part are still executed by the Revenue Authorities.

Part VIII provided for memoranda of decrees and orders modifying any right in immoveable property being sent both to the district in which the property is situated and to the district in which any deed affecting it was originally registered. The costs were defrayed in the Civil Court.

There is no such provision in the present Act. Only sale-certificates are forwarded for registration by the Courts. All other decrees can be registered by the parties themselves. It is a curious circumstance that, although the greatest importance is attached by the public to the file of Sale-certificates as evidenced by the number of searches made of these records, an almost infinitesimal number of other decrees are voluntarily registered.

Part IX includes Parts VIII and IX of the present Act, the procedure in registering wills and authorities to adopt not being so carefully laid down. It was not necessary for the testator or donor to be dead in order to legalise presentation by claimants, and no provision is made for a register of deposits here, but in Part XI.

Part X—"Of the effect of registration and non-registration"—differed from the present law in having no provision for the priority of oral agreements coupled with delivery of possession. Registration gave universal priority, and also extended the period of limitation for the recovery of debts to six years.

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The provisions of Act XVI of 1864 as to special registration of obligations for payment of money were re-enacted.

Part XI described the duties and powers of registering officers. The books to be kept were six, of which the first four were to be kept in all registration offices, and the last two in those of Registrars and Sub-Registrars.

This distinction, if it ever meant anything more than a limitation of the registrations in the office of the Registrar-General, cannot have made much practical difference.

Book I.—Register of instruments relating to immoveable property.

Book II.—Record of reasons for refusal to register.

Book III.—Register of deposits of wills and authorities to adopt (now V)

Book IV.—Register of wills and authorities to adopt (now III).

Book V.—Register of decrees and orders (now abolished).

Book VI.—Miscellaneous Register (now IV).

It would appear from the Act that documents were first endorsed with the presentation certificate, then copied, then indexed, then endorsed with admission of execution and signature of parties, and finally with the registration certificate.

There were three Indexes I and II, as under Act XVI of 1864, Index II still being undefined and not a strictly local index as now, and Index III to Book VI.

Registering officers also had to keep an index in their Book II which is not now required.

The provisions for deeds presented in languages not in ordinary use are curiously complicated, and the exception of copies under section 65, which are the ordinary copies given after search in the register, from the general rule that the translation was to be treated as the original, must have rendered the obtaining of such copies an impossibility, as the translation only was copied in the register, a true copy being filed at the same time, apparently separately, and not open to search.

The special duties of registering officers in regard to copies were the same as now, but the only memoranda were those received from

the Civil Court. It is a curious instance of the tendency of phrases used in drafting to become perpetuated that what is now one of the most ordinary duties of a registering officer should still, in Act III of 1877, and also in the consolidating Act of 1908, be styled a special duty, as it undoubtedly was in the time when documents were seldom registered, except in the place where the property concerned was situated.

The Registrar-General had the same powers as the present Inspector-General, but was also himself a registering officer. It was distinctly laid down in section 81 that no order shall be made to cancel the registration of any document under this Act or under Act XVI of 1864.

Part XII treats of refusal to register. Copies of the reasons which are now supplied without charge were then chargeable with eight annas stamp-duty.

Section 85 specially saved registering officers from liability for anything *bona fide* done or refused in their official capacity.

Part XIII treated of fees and made much the same provision as now.

Part XIV contained miscellaneous provisions and covered the same ground as Part XIV of the present Act.

The miscellaneous provisions—Part XV of the present Act—are new, except section 85 of Act XX of 1866, re-enacted as section 86 of the present Act.

As regards the differences between Act VIII of 1871 and the present law, see notes to each section of the former Act in the Appendix to this chapter.

Act XXVII of 1868 exempted the following instruments from the operation of the Indian Registration Act :—

(2) Documents issued, received or attested by any officer engaged in making a settlement or revision of settlement of land-revenue, and which form part of the records of such settlements.

(2) Document and maps issued, received, or authenticated by any officer engaged on behalf of Government in making or revising the survey of any land, other than waste land, and which form part of the record of such survey.

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(3) Documents which, under any law for the time being in force, are filed annually by patwaris or other officers charged with the preparation of village records.

(4) Sanads, inam title deeds, and other documents purporting to be or to evidence grants or assignments by Government of land or of any interest in land, in reward for special services.

By section 1 of this Act all such documents and acts shall be deemed to have been registered in accordance with its provisions.

By section 2 inspection and copies of such documents on payment of fees is provided for.

By section 3 the copies of sanads and every document mentioned in the 4th clause above executed on or after the 1st of May 1866, are to be sent to the Registrar of the District concerned and to be filed by him in Book I.

By section 4 the Act is to be read as part of Act XX of 1866.

APPENDIX TO PART I.

ACT XVI OF 1864.

REGISTRATION.

ARRANGEMENT OF SECTIONS.

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Repeal of Regulations and Act.

SECTION

1. Laws repealed.
2. Repeal of rules relating to the registration of assurances in certain territories.

Definitions.

3. Interpretation.
4. The head executive officer of certain territory may be vested with the powers conferred by this Act on Local Governments.

Registration Establishment.

5. General Register Office.
6. Formation of districts and sub-districts.
7. Establishment of register offices.
8. Appointment of District and Deputy Registrars
9. Duties of District Registrar of a Presidency-Town not divided into sub-districts.
10. Provision for cases of absence of Registrars or vacancy in the office.
11. Salaries and establishments.
12. Seal of office.

Instruments to be registered.

13. Certain instruments not to be received in evidence in any Civil proceeding unless registered according to provisions of this Act.

Proviso.

14. Mode of determining the value of the right, title, or interest affected by instruments required to be registered.
15. On refusal to register, regular suit may be brought to enforce registration.
16. Instruments whereof the registration is optional.

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17. What instruments not to be accepted unless presented for registration within twelve months after the coming into operation of this Act.
18. What instruments not to be accepted unless presented for registration within four months after execution.
19. What instruments not to be accepted unless presented for registration within two months after execution.
20. What instruments may be registered at any time.

Place of Registration.

21. In what office certain instruments to be presented for registration.
22. In what office other instruments to be presented.
23. To what officer instruments affecting immoveable property situate in more than one sub-district to be presented for registration.
24. To what officer instruments in language not understood by Deputy Registrar to be referred.
25. To what officer instruments affecting immoveable property situate in more than one district to be presented for registration.
26. Registration by Registrar-General.
27. Proceedings in case of registration by Registrar-General.
28. By whom instruments, with certain exceptions, are to be presented for registration.

Mode of Registration.

29. Enquiry before registration by the District Registrar or Deputy Registrar.
30. Entries to be made as to persons examined.
31. Mode of enforcing attendance of persons whose testimony is required by Deputy Registrar.
32. Application when to be made to District Registrar.
33. Mode of enforcing attendance of person whose evidence is required by a District Registrar or Registrar-General.
34. * Law relating to attendance of witnesses in suits in Civil Courts to apply to persons summoned as witnesses under this Act.
35. Erasures or interlineations in instruments presented for registration.
36. Particulars to be endorsed on instrument admitted to registration.
37. Endorsement by whom to be signed and how to be certified.
38. Registered instrument to be copied and numbered.
39. And returned with a further endorsement.
40. The forwarding duplicate abstracts of certain instruments registered in the office of Deputy Registrar.
41. The forwarding abstracts of certain instruments registered in the office of the District Registrar.
42. Such abstracts to be entered in General Register Office.

Decrees affecting Registered Instruments.

43. In what cases memorandum of decree affecting certain registered instruments to be sent to the office in which such instrument shall have been registered.
44. Proceedings on receipt of such memorandum.
45. To what Registrars memorandum of decrees affecting immoveable property to be sent.

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Registration of Wills, Codicils, and Authorities to adopt.

SECTION.

46. Mode of presenting for registration wills, codicils, and instruments giving authority to adopt.
47. Such documents how to be entered.
48. Withdrawal of such documents.
49. Proceedings on death of depositor.
Re-deposit of such documents.
50. Copies of wills re-deposited to be furnished on payment of fees.

Special Registration of obligations for payment of money.

51. Parties may have agreement recorded, that amount secured by a written obligation shall be recovered without suit.
52. Obligations for the payment of money registered with such agreement may be enforced without suit.

Registration Fees.

53. Fees to be charged for registration, &c., how to be fixed.
54. Disposal of fees.

Registers.

55. Books.
Forms.
Fire-proof boxes.
56. Four distinct books.
57. In which book certain instruments to be registered.
58. Indexes.
59. Registers of wills, &c.
60. Inspection of registers and copies of entries.

General Rules.

61. Control of proceedings of Deputy Registrars.
62. Revision of orders of Deputy Registrars refusing registration.
63. No appeal from order admitting to registration.

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64. General control by Registrar-General.
Power to frame rules.
 65. Registration to be made at a public office.
Exception.
 66. Reasons for refusal to register to be recorded by District Registrar or
Deputy Registrar.
 67. Time from which registered instrument shall operate.
 68. Priority of certain registered instruments.
 69. Registry of instruments executed by, on or behalf of, Government.
 70. False statements before any officer acting under this Act how punishable.
 71. Commencement of Act.
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ACT No. XVI of 1864,
AS AMENDED BY ACT IX OF 1865.

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PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 24th March 1864.)

An Act to provide for the Registration of Assurances.

WHEREAS it is expedient to consolidate and amend the laws relating to the Registration of Assurances ; It is enacted as follows :—

Preamble.

REPEAL OF REGULATIONS AND ACTS.

1. The Regulations and Acts and parts of Regulations and Acts set forth in the Schedule annexed to this Act are hereby repealed to the extent mentioned in the said Schedule, except in so far as such Regulations or Acts rescind other Regulations or Acts, and except as regards instruments duly registered under them or any of them before the date on which this Act shall come into operation.

Laws repealed.

2. From the date on which this Act shall be extended as hereinafter provided to any part of British India in which the Regulations and Acts mentioned in the Schedule annexed to this Act are not in force, all Rules and Regulations relating to the registration of assurances in force in such part of British India shall cease to have effect, except as regards instruments duly registered under any of the said Rules or Regulations in such part of British India.

Repeal of rules relating to the registration of assurances in certain territories.

DEFINITIONS.

3. The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction—that is to say :—

Interpretation.

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The words "British India" denote the territories which are or may become vested in Her Majesty by the Statute 21 and 22 Vic., cap. 106, entitled "An Act for the better Government of India" except the Settlement of Prince of Wales' Island, Singapore, and Malacca :

The words "Local Government" denote the person or persons authorized by law to administer the Executive Government in any part of British India :

The words "year" and "month" denote a year or month respectively by the British Calendar :

The word "Section" denotes a section of this Act :

Words importing the singular number include the plural number ; words importing the plural number include the singular number.

Words importing the masculine gender include females.

4. It shall be lawful for the Governor-General of India in Council, by an order to be published in the *Gazette of India*, to declare that in any territory under the immediate administration of the Government of India the head executive officer of such territory shall exercise the powers vested by this Act in the Local Governments, and thereupon such officer shall, for the purposes of this Act, be the Local Government of such territory as defined in this Act.

The head executive officer of certain territory may be vested with the powers conferred by this Act on Local Governments.

REGISTRATION ESTABLISHMENT.

5. Every Local Government shall establish within the territories subject to such Government, at such place as to it shall seem fit an office to be called the General Register Office, and shall appoint an officer to the charge of such office, who shall be the Registrar-General of the territories for which he is appointed. Nothing in

General Register Office.

this Act contained shall make it unlawful for any Registrar-General to hold simultaneously any other office to which he may be appointed by the Local Government.

6. For the purposes of this Act, the Local Government shall form districts and shall divide such districts into sub-districts, and shall prescribe and from time to time may alter the limits of the districts and sub-districts so formed.

The Local Government shall also for the purposes of this Act prescribe the limits of the Presidency-Towns of Calcutta, Madras, and Bombay respectively: and every such Town shall for the purposes of this Act be deemed a district.

The Local Government may, if it shall think fit so to do, divide the said Presidency-Towns respectively into sub-districts, and may from time to time alter the limits of the said Presidency-Towns and of the said sub-districts thereof.

The districts and sub-districts formed under this section, together with the limits thereof, and every alteration of such limits, shall be forthwith notified by the Local Government in the official Gazette.

7. The Local Government shall establish in every district an office to be styled the District Register Office, and in every sub-district an office to be styled the Deputy Register Office.

8. The Local Government may appoint such persons, whether public officers or not as it may think proper, to be District Registrars of the several districts, and to be Deputy Registrars of the several sub-districts formed as aforesaid respectively: provided that, except in the said Presidency-Towns of Calcutta, Madras, and Bombay, no person shall at the same time hold both the office of District Registrar and the office of Deputy-Registrar.

9. In each of the Presidency-Towns aforesaid not for the time being divided into sub-districts, the District Registrar shall perform all the duties of a Deputy-Registrar of a Sub-district under this Act in the same

Formation of districts and sub-districts.

Establishment of register offices.

Appointment of District and Deputy-Registrars.

Duties of District Registrar of a Presidency Town not divided into sub-districts.

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manner and subject to the same rules as if such Presidency-Town were a sub-district; provided that there shall be no appeal under section 62 from his order.

10. In case of the absence of any Deputy-Registrar, or of a vacancy occurring in the office of any Deputy-Registrar, it shall be lawful for the District Registrar to whom such Deputy-Registrar is subordinate to appoint any person whom he may think proper to take temporary charge of the office of such Deputy-Registrar, and to register instruments in the same manner as if such person had been appointed to the office by the Local Government. In case of the absence of any District Registrar, or of a vacancy occurring in the office of any District Registrar, the Judge of the principal Court of Original Civil Jurisdiction of the district, or any other person whom the Registrar-General may think proper to appoint, shall, during such absence or vacancy, be the District Registrar. In case of the absence of the District Registrar of a Presidency-Town, or of a vacancy occurring in the Office of any such Registrar, it shall be lawful for the Registrar-General of the Presidency, or place, to appoint any person whom he may think proper to take temporary charge of the office of such Registrar.

11. It shall be lawful for the Local Government, with the sanction of the Governor-General of India in Council, to assign such salaries as such Local Government may from time to time deem proper, to the Registrar-General the District Registrars, and the Deputy Registrars appointed under this Act, or to provide for the remuneration of such officers by fees, or partly by fees and partly by salaries. It shall also be lawful for the Local Government, with the like sanction, to allow such establishments for the General Register Office and for the offices of the several District Registrars and Deputy Registrars as may be necessary for the purposes of this Act.

12. The Registrar-General and the several District Registrars and Deputy Registrars shall use a seal bearing the following inscription in English and in such other language as the Local Government shall

direct: "The Seal of the Registrar-General (or of the District Registrar, or Deputy Registrar) of....."

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INSTRUMENTS TO BE REGISTERED.

13. No instrument being a deed of gift of immoveable property,

on lease of immoveable property for any period exceeding one year, no instrument (other than a deed of gift or lease as aforesaid) which purports or operates

Certain instruments not to be received in evidence in any civil proceeding unless registered according to provisions of this Act.

to create, declare, transfer, or extinguish any right, title, or interest of the value of one hundred rupees or upwards in any immoveable property, and no instrument which acknowledges the receipt or payment of any consideration on account of the creation, declaration, transfer, or extinction of any right, title, or interest as above, of such value as aforesaid in any immoveable property, shall be received in evidence in any civil proceeding in any Court, or shall be acted on by any public officer, if such instrument shall have been executed on or after the date on which this Act shall come into operation, and if the property to which such instrument relates shall be situate in any part of British India in which this Act is in force, unless the same shall have been registered in the manner and within the time prescribed by this Act: Provided that the

Provido.

provisions of this section shall not apply to any lease executed between landlord and tenant relative to land in the Presidency of Madras liable to the payment of revenue to Government, but any such lease may be registered under section 16, subject to the provisions of sections 17 and 19.

Provided also that the provisions of this section shall not apply to any instrument relating to shares in a Joint Stock Company notwithstanding that the assets of such Company shall consist in whole or in part of immoveable property.

14. For the purposes of this Act, the value of the right, title or

interest in any immoveable property created, declared, transferred, or extinguished by any instrument shall be taken

Mode of determining the value of the right, title, or interest affected by instruments required to be registered.

to be the value indicated by the stamp affixed thereto or impressed thereon under Act X of 1862 (to Consoli-

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date and Amend the Law relating to Stamp Duties), or under any other Act for the time being in force for regulating the stamp duties.

15. If a District Registrar or Deputy Registrar shall refuse to register an instrument falling within the provisions of section 13, it shall be lawful for any person interested to institute a regular suit in order to establish his right to have such instrument registered, and the instrument shall be admissible in evidence for the purposes of such suit. The District Registrar or Deputy Registrar who refused to register such instrument shall not be made a party to any such suit, but the Court may, if it shall think proper order such District Registrar or Deputy Registrar to register the instrument, and he shall be bound to comply with the order. The petition of plaint in any suit instituted under this section shall be written on paper bearing a stamp of the value of eight annas.

On refusal to register, regular suit may be brought to enforce registration.

16. On and after the date on which this Act shall come into operation, any of the following instruments executed on or after the said date may be registered under this Act:—

Instruments whereof the registration is optional.

1. Any instrument which purports or operates to create, declare, transfer or extinguish any right, title, or interest of value less than one hundred rupees, in any immoveable property.

2. Any instrument which acknowledges the receipt or payment of any consideration on account of the creation, declaration, transfer or extinction of any right, title or interest, of such value as aforesaid, in any such immoveable property.

3. Any lease for a period not exceeding one year.

4. Any instrument which purports or operates to create, declare, transfer or extinguish any right, title, or interest in any immoveable property.

5. Any will, codicil or authority to adopt a son.

6. Any decree or order of Court or private award of arbitration.

7. Any deed, bond, contract or other obligation.

TIME OF REGISTRATION.

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17. No instrument of the descriptions mentioned in sections 13 and 16 (other than a will, codicil to a

What instruments not to be accepted unless presented for registration within twelve months after the coming into operation of this Act.

will, or authority to adopt a son), which shall have been executed before the date on which this Act shall come into operation, shall be accepted for registra-

tion unless such instrument be presented for registration within twelve months from such date.

18. No instrument of the descriptions mentioned in section 13, which shall have been executed

What instruments not to be accepted unless presented for registration within four months after execution.

after the date on which this Act shall come into operation, shall be accepted for registration unless presented for that

purpose to the proper officer within four months from the date of the execution thereof.

19. No instrument of any of the descriptions mentioned in section 16 (other than a will, codicil to

What instruments not to be accepted unless presented for registration within two months after execution.

a will, or authority to adopt a son), which shall be executed after the date on which this Act shall come into operation, shall be accepted for registration

unless presented within two months from the date of the execution thereof.

20. Any will, codicil to a will, or authority to adopt a son may

What instruments may be registered at any time.

at any time be registered in the manner hereinafter provided, by the person making such will or codicil, or giving

such authority.

PLACE OF REGISTRATION.

21. Save as in this Act otherwise provided, every instrument which purports or operates to create,

In what office certain instruments to be presented for registration.

declare, transfer, or extinguish any right, title, or interest in any immoveable

property, and any instrument acknowledging the receipt or payment of any consideration on account of

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the creation, declaration, transfer, or extinction of any right, title, or interest in any immovable property, or any lease, shall be presented for registration in the office of the Deputy-Registrar within whose sub-district the property is situate.

22. Every instrument other than an instrument of the nature

In what office other instruments to be presented.

specified in the last preceding section, shall be presented for registration in the office of the Deputy Registrar within

whose jurisdiction such instrument is executed, or at any registry office under the same Local Government, at which all the parties executing such instrument shall desire the same to be registered.

23. Every instrument affecting immovable property the

To what officer instruments affecting immovable property situate in more than one sub-district to be presented for registration.

whole of which, although situate in one district is not situate in one sub-district, may be presented for registration to any Deputy-Registrar within whose sub-district any part of such property is

situate. It shall be the duty of such Deputy-Registrar, after registering the instrument, forthwith to cause to be made and to forward a copy thereof, endorsed in the manner provided in section 25, to the District Registrar to whom he is subordinate, who shall register the same, and forward a copy of such instrument and of the endorsement aforesaid, to every Deputy-Registrar in his district in whose sub-district any part of such property is situate, other than the Deputy-Registrar in whose office the instrument shall have been originally registered, and every Deputy-Registrar who shall receive such copy shall forthwith register the same.

24. If any instrument tendered for registration be in a language

To what officer instruments in language not understood by Deputy-Registrar to be referred.

which the Deputy-Registrar does not understand, the Deputy-Registrar shall refuse to register the instrument, and

shall refer the parties to the District Registrar, who shall deal with the instrument in the same manner as he is required by this Act to deal with instruments presented to him in the first instance for registration.

* 25. Every instrument affecting immovable property situate in more districts than one, may be presented for registration to the District Registrar of any district in which any part of the property is situate, and it shall be the duty of such Registrar to register the instrument, and to forward, as well as to the Deputy Registrars subordinate to himself within the limits of whose jurisdiction any part of the property is situate, to the District Registrar of every District in which any other part of such property is situate, a copy thereof endorsed with an attestation stating the date on which it was registered and its number in his Register Book. The District Registrar on receiving the copy shall forward a copy of the same and of the endorsement on the instrument to the Deputy-Registrars subordinate to him within the limits of whose jurisdiction any part of the property is situate. Every District Registrar and Deputy-Registrar receiving such copy as above shall register the same in the same manner as if the instrument had been presented to him in the first instance for Registration.

26. It shall be lawful for the Registrar-General in his discretion to receive and register any instrument of the nature specified in section 21, which may be presented at his office for registration, without reference to the situation of the property to which the instrument relates. In registering any instrument under this section, the Registrar-General shall follow the mode of registration hereinafter prescribed for the registration of instruments presented in the first instance to a District Registrar or a Deputy-Registrar.

27. It shall be the duty of the Registrar-General, on any such instrument being registered in his office under the last preceding section, to cause to be made and forwarded to every District Registrar, within the local limits of whose jurisdiction any part of the property to which the instrument relates is situated, a copy of such instrument endorsed with an attestation stating the date on which it was registered and the number in his Register

Registration of instruments affecting immovable property situate in more than one district.

Registration by Registrar-General.

Proceedings in case of registration by Registrar-General.

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Book : and the District Registrar receiving such copy shall register the same as if it had been presented to him in the first instance, and shall forward a copy thereof and of the endorsement aforesaid to the Deputy-Registrar of each sub-district within his jurisdiction in which any part of such property is situate, and every Deputy-Registrar who shall receive such copy shall register the same.

During the absence on duty of the Registrar-General from the place where the General Register Office is established, it shall be lawful for him to appoint the District Registrar of such place, or, with the sanction of the Local Government, such other person as he shall think fit, to perform the duties of the Registrar-General under the twenty-sixth and twenty-seventh sections of the said Act. A District Registrar so appointed as aforesaid shall perform such duties in addition to his own duties as District Registrar. During such absence as aforesaid, such District Registrar or other person so appointed as aforesaid shall be styled the Deputy Registrar-General, and may, in registering any instrument under the said twenty-sixth section, use of the Seal of the Registrar-General.

28. Every instrument to be registered under this Act, not being a will, codicil to a will, or an authority to adopt a son, shall be presented at the office in which such instrument is to be registered by all the parties executing the same, or by the heirs, representatives, or assigns of such parties, or by the authorized agents of such parties, or of their heirs, representatives, or assigns under a power-of-attorney special or general. But no such power-of-attorney shall be recognised for the purposes of this Act unless it shall have been executed in the presence of, and duly attested by, the District Registrar or Deputy-Registrar within the local limits of whose jurisdiction the person executing the same resides if he reside in any part of British India subject to the operation of this Act, or if he reside in a part of British India not subject to the operation of this Act, unless it shall have been executed in the presence of, and been duly attested by, the officer presiding over the principal Court of Original Civil Jurisdiction.

By whom instruments with certain exceptions, are to be presented for registration.

within the local limits of whose jurisdiction the person executing the same resides. If the person executing such power-of-attorney do not reside within any part of British India, it shall not be recognised for the purposes of this Act unless it shall have been executed in the presence of, and duly attested by, an officer of the British Government, or by a Notary Public where there is such a functionary. The provisions contained in this section relating to the execution of powers-of-attorney in the presence of the District Registrar or Deputy Registrar, shall not apply in the case of a Native woman of a rank or description, which according to the customs of the country would render it improper to require her personally to attend at the office of the District Registrar or Deputy Registrar. In the case of any woman of the rank or description above mentioned, the District Registrar or Deputy Registrar, if satisfied that the power-of-attorney is the free and voluntary act of the woman by whom it purports to have been made, may attest the same without requiring her personal attendance at his office. For the purpose of satisfying himself on this point, the District Registrar or Deputy Registrar may proceed or depute some trustworthy person to the residence of the woman to take her examination in the mode prescribed for taking the evidence of Native females of rank.

Every power-of-attorney not duly executed or attested in compli-

Recognition of powers of-
attorney executed by persons
absent from India without exact
observance of provisions of
section 28 of Act XVI of 1864.

ance with the terms of the twenty-eight section of Act XVI of 1864 shall, at any time within three month after the passing of this Act (but not afterwards), be

deemed to be a power duly executed and attested within the meaning of the same section, if the Registrar-General, or in his absence the Deputy Registrar-General, after making such enquiry as he shall think fit, shall have certified upon such power-of-attorney that he is satisfied with the execution thereof, and that, in his opinion, it should be taken as a power duly executed and attested as aforesaid: Provided that this section shall not apply to any case in which the person who executed the power-of-attorney shall be still in India.

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26. One the parties to any instrument, their heirs, administrators or assigns, or the agents of such parties authorized as hereinbefore provided appearing before the District Registrar or Deputy Registrar for the purpose of obtaining the registration of such instrument, he shall proceed to enquire whether such instrument was executed or not by all the parties thereto by whom it purports to have been executed, and to satisfy himself of the right of any person to appear as the heir, administrator, or assign of any party whom he shall claim to represent, or if any party shall appear by agent, of the authority of such agent. If all the parties executing the instrument appear personally before the District Registrar or Deputy Registrar and are personally known to him, or in case they are not personally known to him if they satisfy him that they are the parties they represent themselves to be, and if they all admit the execution of the instrument, or in the case of any party appearing by authorized agent if such agent shall admit the execution of the instrument, the District Registrar or Deputy Registrar shall register the same.

30. The District Registrar or Deputy Registrar shall enter in the Register Book the name and address in full of every person whom he may examine as to any of the matters in the last preceding section mentioned.

31. If any party to an instrument shall require assistance to procure the attendance of a person whose testimony is necessary for the registration of such instrument by a Deputy Registrar, such Deputy Registrar may in his discretion, and if such person shall be within the local limits of the jurisdiction of such Deputy Registrar, issue a summons requiring such person to attend at the office of such Deputy Registrar at a time named in such summons.

Enquiry before registration by the District Registrar or Deputy Registrar.

Entries to be made as to persons examined.

Mode of enforcing attendance of person whose testimony is required by Deputy Registrar.

82. If the person whose attendance is required is not within the local limits of the jurisdiction of the Deputy Registrar, the party to the instrument who requires his attendance shall apply through the Deputy Registrar to the District Registrar in whose district such person is, and the District Registrar may in his discretion issue a like summons for the attendance of such person at the office of such Deputy Registrar.

Application when to be made to District Registrar.

Mode of enforcing attendance of person whose evidence is required by a District Registrar or Registrar-General.

33. The provisions of the last two preceding sections shall apply *mutatis mutandis* to all cases in which a party executing an instrument shall require assistance to procure the attendance of a person whose testimony is necessary for the registration of such instrument by a District Registrar or by a Registrar-General.

Law relating to attendance of witnesses in suits in Civil Court to apply to persons summoned as witnesses under this Act.

34. The provisions of the Acts in force for the time being for procuring the attendance of witnesses, for the examination, remuneration, and punishment of witnesses in suits before Civil Courts, shall be of equal force and effect in respect of any person summoned to appear as a witness under the foregoing provisions of this Act.

85. No instrument shall be accepted for registration if any interlineation, erasure, or alteration shall appear on such instrument, unless the parties appearing to register the same shall attest with their signatures such interlineation, erasure, or alteration; and it shall be the duty of the officer registering such instrument, at the time of registering it, to make a note in the register of such interlineation, erasure or alteration.

Erasures or interlineations in instruments presented for registration.

Particulars to be endorsed on instrument admitted to registration.

36. On every instrument admitted to registration there shall be endorsed the following particulars,—that is to say—

1. The date and hour of presentment.
2. The names in full of the parties executing the instrument: and if it shall have been presented by the heir, representative, or assign or by the agent of any party, the name of such heir, representative, assign or agent.

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3. The name and address in full of every person whose evidence may have been taken under any of the provisions of this Act.

4. Any payment of money or delivery of goods made in the presence of the District Registrar or Deputy Registrar.

37. The endorsement shall be signed by every party executing the instrument, or by his heir, representative, or assign, or by his agent, and shall be certified by the seal and signature of the District Registrar or Deputy Registrar. The instrument thus endorsed shall be *prima facie* proof on the production thereof in any Court that such instrument has been duly registered in the manner provided in this Act. Provided that it shall be competent to the Court to require further evidence of such registration if it shall see sufficient cause for doing so.

38. Every instrument admitted to registration and endorsed as hereinbefore provided, shall be copied in its appropriate book according to the order of its presentation, and shall be numbered accordingly.

39. After the provisions of sections 36, 37 and 38, shall have been complied with, the instrument shall be returned to the party who shall have presented the same for registration, with a further endorsement inscribed thereon and certified as above, containing the number and page of the book in which the copy and the registration of the instrument shall have been made.

*40. An abstract of every original instrument affecting immovable property registered in the office of any Deputy Registrar, shall, with an endorsement showing the date on which it was registered and its number in the Register Book of such Deputy Registrar, be forwarded in duplicate within seven days from such date to the District Registrar, who shall forthwith forward one of such duplicates to the General Register Office, and shall retain the other in his own office and enter it in a book corresponding with the Book No. 1, 2, 3 or 4 as described in the fifty-sixth section of this Act.

41. An abstract of every original instrument affecting immovable property registered in the office of any District Registrar, shall with an endorsement attesting the date on which it was registered and its number in the Register Book of such District Registrar, within seven days be forwarded to the General Register Office.

42. On the receipt in the General Register, Office, of the abstract of any entry made in any register, the same shall be entered in the Book No. 1, 2, 3, or 4, described in section 56 of this Act, as the case may be.

Such abstracts to be entered in General Register Office.

DECREES AFFECTING REGISTERED INSTRUMENTS.

43. When any Civil Court shall by a decree or order declare any instrument relating to immovable property which shall have been registered under this Act to be invalid, or when any Civil Court shall pass a decree or order affecting the validity or otherwise of any such instrument, and such last mentioned decree or order shall create, declare, transfer, limit, or extinguish any right, title, or interest under such instrument in the immovable property to which it relates, such Court shall cause a memorandum of the decree or order to be sent to the office in which such instrument shall have been originally registered.

44. Whenever any memorandum is received under the last preceding section, a transcript thereof shall immediately be made in the margin of the part of the book in which there is any register of the instrument affected by such memorandum: and the District Registrar or Deputy Registrar shall forthwith transmit a copy of such memorandum to the Registrar-General, and to every District Registrar and every Deputy Registrar in whose office the said instrument or any abstract thereof is registered.

Proceedings on receipt of such memorandum.

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45. When any Civil Court shall by a decree or order create, declare, transfer, limit or extinguish any right, title or interest of any person in any immovable property situate in any part of British India in which this Act is for the time being in force, such Court shall cause a memorandum of the said decree or order to be sent to every District Registrar and every Deputy Registrar within the local limits of whose jurisdiction such immovable property or any part thereof is situate. Every such memorandum received by a District Registrar or Deputy Registrar shall be entered by him in a book to be kept for the registration of decrees and orders: and acopy of such memorandum shall be sent to the Registrar-General.

REGISTRATION OF WILLS CODICILS, AND AUTHORITIES TO ADOPT.

46. Any person wishing to register his will, a codicil to his will or any instrument giving authority to adopt a son after his decease, shall either personally or by a duly authorized agent deliver such will or codicil, or instrument, in a sealed cover superscribed with the name of the depositor and the nature of the instrument, to a District Registrar who shall, if the will, codicil, or instrument be presented in person, satisfy himself of the identity of the person presenting it, or if the will, codicil, or instrument be presented by an agent shall satisfy himself of the authority of such agent as provided in section 28.

47. If satisfied as above, the District Registrar shall enter the receipt of every sealed cover delivered to him under the last preceding section in the register of deposits of wills, codicils, and instrument, giving authority to adopt, transcribing therein the superscription on such sealed cover, and noting in the register and on the sealed cover the year, month, day, and hour of such receipt, together with the name of the depositor, and the name of each of the persons testifying to the identity of such depositor, and the inscription so far as it is legible on the seal of the depositor. The District Registrar shall then

place the sealed cover in a fire-proof box to be supplied by Government for that purpose.

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48. If the depositor of any such sealed cover shall wish to withdraw the same, it shall be lawful for him to apply by petition to the principal Court of Original Civil Jurisdiction having jurisdiction where the sealed cover was deposited, for an order that the same be given up to him. If the Court shall be satisfied as to the identity with the depositor of the person applying for such an order, it may if it shall see fit make such an order as applied for, and the District Registrar in whose office the sealed cover was deposited shall deliver up the same in obedience to the order.

49. If on the death of the depositor of a sealed cover under section 46, application be made to the District Registrar in whose office the said sealed cover was deposited to open the same, the District Registrar, after satisfying himself that the depositor is dead, shall in the presence of the person making such application open the sealed cover, and shall enter a copy of the contents thereof, to be made at the expense of the applicant, in a register of wills, codicils, and instruments giving authority to adapt a son. When such copy shall have been entered, the District Registrar shall re-deposit the original will, codicil, or instrument, until required to produce the same in a Court of Justice.

50. The District Registrar shall furnish to any applicant who shall pay to him the fees payable under this Act in respect thereof, a copy authenticated by his signature, of any will re-deposited under the last preceding section. And any copy certified by the District Registrar to be a true copy, shall be evidence of the contents of the will, codicil, or instrument giving authority to adopt, of which it purports to be such copy.

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SPECIAL REGISTRATION OF OBLIGATIONS FOR PAYMENT OF MONEY.

51. Whenever the parties to a bond or other written obligation for the payment of money, shall

Parties may have agreement recorded, that amount secured by a written obligation shall be recovered without suit.

at the time of registering the same under the provisions of this Act apply to the district Registrar or Deputy

Registrar to record their agreement, that in the event of the bond or other written obligation as aforesaid not being satisfied within the time stipulated the amount may be recovered as hereinafter provided without a suit, it shall be the duty of the District Registrar or Deputy Registrar, after making such enquiries as he may think proper, to record such agreement at the foot of the endorsement required by section 36, and such record shall be signed by the District Registrar or Deputy Registrar, and by the parties to the bond or other written obligation as aforesaid.

52. A bond or other obligation for the payment of money registered with such agreement as in

Obligations for the payment of money registered with such agreement may be enforced without suit.

the last preceding section mentioned, may be enforced without a suit by any Court which would have had juris-

isdiction to try a suit on such bond or other obligation for the recovery of the amount, provided that the application for the enforcement of the same be made within the period of one year from the date on which the amount became payable. The bond or other obligation as aforesaid shall be enforced as a decree in a suit under the rules applicable to the execution of decrees in the Court in which the application for enforcement is made, but subject to any provisions contained in any law for the time being in force, in relation to the enforcement, without a suit, of bonds or other obligations for the payment of money registered with such agreement as aforesaid. The application for the enforcement of a bond or other obligation for the payment of money under this section shall be written on a stamp paper of one-fourth the value prescribed for a petition of plaint, in a suit to recover the same amount under the provisions of Article 11, Schedule B, Act X of 1862 (*To Consolidate and amend the Law relating to Stamp Duties*) or any other law for the time being in force for regulating Stamp Duties.

REGISTRATION FEES.

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53. Subject to the approval of the Governor-General of India in Council, the Local Government shall prepare a table of fees payable for the registration of instruments, for searching the registers, and for making or granting copies of entries, abstracts, or instruments, either on registration or search. Subject to the like approval, the Local Government shall also prepare a table of special additional fees payable for every registration by a Registrar-General under section 26, and for such other matters as shall to the Local Government appear necessary. The Local Government may from time to time subject to the like approval alter such table. A table of the fees so payable shall be published in the Official Gazette and shall be exposed to public view in every office established for the registration of instruments, and no instruments shall be accepted for registration, and no copy shall be granted, and no search shall be made or allowed until the fee duly prescribed in that behalf shall have been paid.

54. All fees received under the provisions of this Act (not being fees payable under Section 11 of this Act to officers who are paid wholly or in part by fees), shall be remitted to such treasury as the Local Government shall direct, and be credited to Government.

REGISTERS,

55. The Local Government shall provide for the office of every Registrar-General, District Registrar, and Deputy Registrar, such books as may be necessary for the purposes of this Act. The books so provided shall contain such printed forms as shall from time to time be prescribed by the Registrar-General, with the sanction of the Local Government, for the entries to be made therein and for the indexes to such books, and the pages of such books shall be consecutively numbered in print, and the number of pages in each book shall be certified on the title page by the officer by whom such books shall be supplied. The Local Government shall further supply the office of every District Registrar with a fire-proof box.

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56. In every General Register Office, and in the office of every District Registrar and Deputy Registrar, four books shall be kept which shall be entitled—

Four distinct books.

1. Register of absolute transfers of immovable property.
2. Register of other transfers of immoveable property.
3. Register of decrees and orders of Court and of awards of arbitrations

4. General register of all other instrument for the registration of which provision is made in this Act, and the entry of which is not required to be made in any other register.

57. All entries made in such books shall be numbered in a

In which book certain instru- consecutive numerical series with shall
ments to be registered. commence and terminate which the
year, a fresh series being commenced at the beginning of each year.
Whenever any instrument for the registration of which application
may be made, refers to immovable and also to moveable property, it
shall be entered in Book No. 4 and also in Book No. 1, 2, or 3, as
the case may be.

58. Two indexes shall be prepared for each register, one con-
taining the name of every party to
every instrument registered, and the
other, in the case of immoveable property, containing the name of
the village or place where the property is situate, together with a
description of the property and its name, and such other particulars
and in such form as the Registrar-General shall from time to time
prescribe under section 64.

59. Every District Registrar shall, in addition to the books
prescribed in section 56 of this Act,
Registers of wills, &c. keep two books, to be entitled—

Register of deposits of wills, and codicils to wills, and instru-
ments giving authority to adopt a son, as provided in section 47.

Register of wills, codicils, and instruments giving authority to
adopt a son, as provided in section 49.

60. Subject to the previous payment of such fees as may be
payable in that behalf, the registers in
Inspection of registers and the General Register Office, and in the
copies of entries.

Offices of all District Registrars and Deputy Registrars shall be at all times open to inspection by any person applying to inspect the same, and certified copies of any entry in such registers shall be given to all persons applying for such copies. Provided that the only registers to be inspected shall be the registers No. 1, 2, and 3, specified in section 56, and the register specified in section 49.

GENERAL RULES.

61. Every Deputy Registrar shall perform the duties of his office under the superintendence and control of the District Registrar in whose district the office of such Deputy Registrar shall be situate; and the District Registrars shall have authority to issue (whether on complaint or otherwise any orders they may consider necessary) in respect of any proceeding or omission of any Deputy Registrar subordinate to them.

62. Every District Registrar may revise or alter any order of any Deputy Registrar subordinate to him, refusing to admit a document to registration, if an appeal against such order be presented to the District Registrar within thirty days from the date of the order, but not otherwise.

63. No appeal shall lie to the District Registrar from an order of a Deputy Registrar admitting an instrument to registration.

64. The Registrar-General shall exercise a general superintendence over all the register offices within the local limits of his jurisdiction, and shall have power from time to time to frame rules not inconsistent with the terms of this Act, for the guidance of the District Registrars and Deputy Registrars subordinate to him, for regulating the proceeding of these officers, and for providing for the safe custody of books, papers, and instruments, and also for the destruction of such books, papers, and instruments as it may be deemed to be no longer necessary to keep. The rules so framed shall be submitted to the Local Government for approval, and after they shall have been approved,

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they shall be published in the Official Gazette, and shall have the same force as if they were inserted in this Act.

65. The registration of all instruments under this Act shall be made only at the public office of the officer whose duty it shall be to register the same: but any District Registrar or Deputy Registrar may on special cause being shown attend at the place of residence of any party intending to execute any instrument, or of any person desiring to deposit a will, codicil, or authority to adopt a son. Every Deputy Registrar so attending shall within twenty-four hours report to the District Registrar to whom he is subordinate the fact of his having attended, and his reason for so doing.

66. Every District Registrar or Deputy Registrar who shall refuse to register an instrument, and every District Registrar who shall refuse to order an instrument to be registered, shall record his reasons for so refusing; and on application made by any party to the instrument, and on his furnishing a stamped paper of the value of eight annas, shall give him a copy of the reasons so recorded.

67. A registered instrument shall operate from the time from which it would have commenced to operate if no registration had been required or made, and not from the time of its registration.

68. Every instrument of the descriptions mentioned in clauses 1 and 2 of section 16 shall, if duly registered, have priority to any other instrument relating to the same property, whether such other instrument be of the same nature as the registered instrument or not.

69. It shall not be necessary for any officer of Government to appear in person for the purpose of registering any instrument, but when any instrument is executed by, or on behalf of, Government, or by any Court, Board, Commission, or public office on behalf of Government, the District Registrar or Deputy Registrar to whom such instrument is presented for registration, may if he deem it necessary refer to the head officer of the

Court, Board, Commission, or office on whose behalf such instrument was executed, for information respecting the same, and on being satisfied of the execution thereof shall register the instrument.

If any person shall wilfully make any false statement in any deposition or declaration made by him before any officer acting in execution of this Act, in any proceeding or enquiry under the provisions of this Act, he shall be deemed guilty of the offence of giving false evidence as defined in section 191 of the Indian Penal Code.

False statements
before any officer
acting under this
Act how punishable.

This Act shall come into operation on the first day of January 1865 in the Presidencies of Bengal, Madras and Bombay.

Commencement of Act. This Act shall not come into operation in any other part of British India until it shall be extended thereto by an order of the Governor-General of India in Council, or by an order of the Local Government, to be notified in the Official Gazette.

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Number and date of Regulations.	What Code	Title.	Extent of Repeal.
Reg. XXXVI. 1793...	Bengal Code	For establishing a registry for wills and deeds for the transfer or mortgage of real property.	The whole Regulation.
Reg. XXVIII. 1795...	Bengal Code	For extending to the Province of Benares, Regulation XXXVI, 1793, entitled "A Regulation for establishing a registry for wills and deeds for the transfer or mortgage of real property."	The whole Regulation.
Reg. XVII. 1803 ...	Bengal Code	For establishing a registry for wills and deeds for the transfer or mortgage of real property in the Provinces ceded by the Nawab Vizier to the Hon'ble the English East India Company.	The whole Regulation.
Reg. VIII. 1805 ...	Bengal Code	For extending to the conquered Provinces situated within the Doab and on the right bank of the river Jumna, and to the territory ceded to the Hon'ble the English East India Company in Bundelcund by the Peishwa, such of the Laws and Regulations established for the internal Government of the Provinces ceded by the Nawab Vizier to the Hon'ble the English East India Company, as have not been already extended to those territories, and for revising and amending certain parts of the said Laws and Regulations.	Section 17 so far as it related to Regulation XVII, 1803.
Reg. XII. 1805 ...	Bengal Code	For the settlement and collection of the Public Revenue in the Zillah of Cuttack including the Pergunnahs of Puttaspore, Kummardichour, and Bograe, at present included in the Zillah of Midnapore.	Section 32.
Reg. XX. 1812 ...	Bengal Code	For Modifying some of the provisions contained in the existing Regulations respecting the registry of deeds, and for establishing a register of engagements for the delivery of indigo.	The whole Regulation.
Reg. IV. 1824 ...	Bengal Code	To provide more effectually for the office of Registrar of Deeds.	The whole Regulation.

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Number and date of Regulation	What Code.	Title.	Extent of Repeal.
Reg. VII. 1832	Bengal Code	For modifying certain of the provisions of Regulation V, 1831, and for providing Supplementary Rules to that enactment.	Section 4.
Reg. XVII. 1802	Madras Code	For establishing a registry for wills and deeds for the transfer or mortgage of real property.	The whole Regulation.
Reg. XI. 1831	Madras Code	To provide more effectually for the office of Registrar of Deeds.	The whole Regulation.
Reg. IX. 1827	Bom. Code	For establishing a Register of Title Deeds and a general Register of Deeds, obligations, and other writings, in each zillah subordinate to the Presidency of Bombay.	The whole Regulation.
Reg. XIII. 1828	Bom. Code	For enabling Assistant Judges, when expedient, to keep the registers prescribed by Regulation II of 1827, when stationed in the districts,	The whole Regulation.

Number and date of Acts.	Title.	Extent of Repeal.
Act XXX. 1838	...	The whole Act.
Act I. 1843	For amending the Law concerning the registration of written Conveyances and other Instruments affecting titles and other interests to land.	The whole Act.
Act XIX. 1843	For amending the Law respecting the Registration of certain Deeds.	The whole Act.
Act IV. 1845	To amend the Law regarding the Registration of Deeds.	The whole Act.
Act XVIII. 1847	For curing the invalidity in the registration of deeds arising from the fact of having been registered by persons not duly appointed or on other than Court days.	The whole Act.
Act XI. 1851	For the custody of registers of deeds in the Presidency of Bengal.	The whole Act.
Act XXIX. 1856	Concerning the taking of oaths of office by Registrars of Deeds	The whole Act.
Act III. 1859	For conferring civil jurisdiction in certain cases upon Cantonment Joint Magistrates, and for constituting those Officers Registrars of Deeds.	Sections 9 & 10.

THE INDIAN REGISTRATION ACT, 1866.

ACT XX OF 1866.



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51. Period of limitation in suits under a registered written contract for money lent, or interest, or breach of contract.

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52. Record of agreement that amount secured by an obligation may be recovered summarily.
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59. Current Indexes and entries therein.
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61. Two copies of entries in Indexes Nos. I and II to be sent by Sub-Registrar to Registrar.
62. One of each pair of copies received by Registrar from Sub-Registrar to be filed in Registrar's Indexes, and the other to be sent to General Registry Office with a copy of entries in Registrar's Indexes.
63. Copies sent by Registrar to be filed in Indexes of General Registry Office.
64. Annual alphabetical Index to entries in Indexes.
65. Registering officers to allow inspection of certain Books and Indexes and to give certified copies of entries.

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- 68. Certificate showing that document has been registered, and number and page of book in which it has been copied.
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ACT No XX OF 1866.

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PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

Received the assent of the Governor-General on the 2nd April 1866.

(An Act to provide for the Registration of Assurances.)

Whereas it is expedient to consolidate and amend the laws relating to the Registration of Assurances; It is enacted as follows :—

Preamble.

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PRELIMINARY.

Short title.

1. This Act shall be called "The Indian Registration Act, 1866.

Interpretation clause.

2. In this Act—unless there be something repugnant in the subject or context—

"British India" denotes the Territories which are or may become vested in Her Majesty or Her successors by the Statute 21 & 22 Vic., cap. 106, entitled "An Act for the better Government of India," except the Settlement of Prince of Wales' Island, Singapore and Malacca :

"Year" and "month" respectively mean a year and month reckoned according to the British Calendar :

"Year" and "month."

"Section" denotes a section of this Act :

"Section."

"Lease" includes a counterpart, a kabuliyat, an undertaking to cultivate or occupy, and an agreement to lease ; but not a patta or muchalka, as respectively defined in section 3 of Act No. VIII of 1865 of the Governor of Fort St. George in Council, executed in the Madras Presidency :

"Lease,"

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"Will" includes a codicil and every writing making a voluntary posthumous disposition of property :

"Instrument."

"Instrument" does not include a will nor an authority to adopt :

"Obligation" denotes any instrument by which one person (hereinafter called the obligor) binds himself absolutely or conditionally to

pay money to another person (hereinafter called the obligee), and includes a bond, a bill of exchange, a hundi and a promissory note :

"Signature" "Signed."

"Signature" and "signed" include and apply to the affixing of a mark

"Immovable property" includes land, buildings, rights to ways, lights, fisheries or any other benefit to arise out of land, and things attached to

the earth or permanently fastened to any thing which is attached to the earth ; but not standing timber, growing crops, nor grass :

"Movable property" includes standing timber, growing crops, grass, fruit upon trees, and property of every other description, except immovable property :

"Book" includes a portion of a book and also any number of sheets connected together with a view of forming a book or portion of a book.

"Endorsement" and "endorsed" include and apply to an entry in writing by a registering officer on a rider or covering-slip to any document tendered for registration under this Act :

"Representative" includes the guardian of an infant and the committee or other legal curator of a lunatic or idiot :

"Oath." "Oath" includes a solemn affirmation :

"Imprisonment" means imprisonment of either description as defined in the Indian Penal Code :

"Person" includes any company or association or body of persons whether incorporated or not:

"Addition" means the place of residence, and the profession, trade, rank or title (if any) of a person described:

Words in the singular number include the plural; words in the plural number include the singular, and words importing the masculine gender include females And in any part of British India in which this Act operates, "Local Government"

"Local Government,"

"High Court,"

"District Court,"

denotes the person authorized by law to administer the Executive Govern-

ment in such part: "High Court" denotes the highest Civil Court of appeal therein: "District Court" means the principal Civil Court of Original Jurisdiction in a District, and includes the High Court in its ordinary Original Civil Jurisdiction;

"Civil Court."

and "Civil Court" includes a Revenue

Court, but not a Court for the relief of insolvent debtors:

"General Registry Office."

"General Registry Office" includes a Branch General Registry Office:

"District" "Sub-District."

"District" and "Sub-District" respectively mean a District and Sub-District formed under this Act.

3. Acts No. XVI of 1864 and No. IX of 1865 are hereby repealed, except in so far as the former Act rescinds other Acts or Regulations, and except as regards things duly done and penalties incurred under the Acts hereby repealed or either of them. And all things duly done under the same Acts or either of them shall be considered as having been done under this Act.

4. It shall be lawful for the Governor-General of India in Council, by an order to be published in the *Gazette of India*, to declare that in any territory under the immediate administration of the Government of India the head executive officer of such terri-

Power to invest head executive officer of territories under immediate administration of Government of India with authority vested by this Act in Local Governments.

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tory shall exercise all or any of the powers vested by this Act in the Local Governments ; and thereupon such officer shall, for the purposes of this Act, be the Local Government of such territory.

PART II.

OF THE REGISTRATION ESTABLISHMENT.

5. The Local Government shall establish within the territories subject to such Government, at such place as it shall think fit, an office to be called the General Registry Office ; and shall appoint an officer to the charge of such office, who shall be the Registrar-General of the territories for which he is appointed. The Local Government may also, with the previous sanction of the Governor-General of India in Council, establish a Branch General Registry Office and appoint a Branch Registrar-General ; and every act done by or before any Branch Registrar-General so appointed shall have the same effect as if done by or before a Registrar-General : provided that such Branch Registrar-General shall not exercise the power to frame rules conferred on the Registrar-General by section 80. Any Registrar-General or Branch Registrar-General may hold simultaneously any other office under Government.

6. For the purposes of this Act the Local Government shall form districts and sub-districts, and shall prescribe and from time to time may alter the limits of such districts and sub-districts. A sub-district may be conterminous with a district, or may be situate partly in one district and partly in another.

The districts and sub-districts formed under this section, together with the limits thereof and every alteration of such limits, shall be notified by the Local Government in official Gazette immediately after every such formation or alteration. Every such alteration shall take effect on such day after the notification as shall be mentioned therein.

7. The Local Government shall establish in every district an office to be styled the registry office, and in every sub-district an office to be styled the sub-registry office.

8. The Local Government may appoint such persons, whether public officers or not, as it may think proper, to be Registrars of the several districts, and to be Sub-Registrars of the several sub-districts, formed as aforesaid respectively.

Appointment of Deputy Registrar-General to perform duties of Registrar-General, except those mentioned in sections 80 and 83, during his absence on duty.

9. During the absence on duty of the Registrar-General or Branch Registrar-General from the place where the general registry office is established, it shall be lawful for him to appoint the Registrar of such place, or with the previous sanction of the Local Government such other person as he shall think fit, to perform the duties of the Registrar-General, except those mentioned in sections 80 and 83. A Registrar so appointed shall perform such duties in addition to his own duties as Registrar. During such absence the Registrar or other person so appointed as aforesaid shall be styled the Deputy Registrar-General or Deputy Branch Registrar-General, as the case may be, and may use the seal of the Registrar-General or Branch Registrar-General, as the case may be.

Provision for cases of absence of a Registrar from his district or vacancy in his office.

10. In case of the absence from his district or of a vacancy occurring in the office of any Registrar other than the Registrar of a district including a Presidency-Town, any person whom the Registrar-General shall appoint in this behalf, or, in default of such appointment, the Judge of the District Court shall during such absence or vacancy be the Registrar. In case of the absence of the Registrar of a district including a Presidency-Town, or of a vacancy occurring in the office of any such Registrar, it shall be lawful for the Registrar-General to appoint any person whom he may think proper to conduct the duties of the office of such Registrar.

Provision for case of Registrar's absence from office on duty in his district.

11. In case of the absence of any Registrar from his office on duty in his district, it shall be lawful for him to appoint any Sub-Registrar in his district to perform, during such absence, all the duties of a Registrar except those mentioned in sections 79 and 83.

12. In case of the absence of any Sub-Registrar, or of a vacancy occurring in the office of any Sub-Registrar, any person whom the Registrar of the district shall appoint in this behalf shall, during such absence or vacancy, be Sub-Registrar.

Provision for cases of absence of Sub-Registrar or vacancy in his office.

13. All appointments made under section 9, 10, 11 or 12 shall be reported to the Local Government by the Registrar-General or Branch Registrar-General, as the case may be. Such report shall be either special or general, as the Local Government shall direct; and the Local Government shall have power to suspend, remove or dismiss any persons appointed under the provisions of this Act, and to appoint other persons in their stead.

Appointments under section 9, 10, 11 or 12 to be reported to local Government.

Local Government may suspend, remove or dismiss any person appointed under this Act.

14. It shall be lawful for the Local Government, with the previous sanction of the Governor-General of India in Council, to assign such salaries as such Government may from time to time deem proper, to the registering officers appointed under this Act, or to provide for the remuneration of such officers by fees, or partly by fees and partly by salaries. It shall also be lawful for the Local Government, with the like sanction, to allow such establishments for the several registration offices as may be necessary for the purposes of this Act.

Remuneration and establishments of registering officers.

15. The Registrar-General, Branch Registrar-General, and the several Registrars and Sub-Registrars, shall use a seal bearing the following inscription in English and in such other language as the Local Government shall direct: "The Seal of the Registrar-General (or of the Branch Registrar-General, or of the Registrar, or of the Sub-Registrar) of....."

Seals of registering officers.

16. The Local Government shall provide for the office of every registering officer such Books as may be necessary for the purposes of this Act. The books so provided shall contain such forms as shall from time to time be prescribed by the Registrar-General, with the sanction of the Local Government, and the pages of such books shall be consecutively

Register-Books.

Forms

numbered in print, and the number of pages in each book shall be certified on the title page by the officer by whom such books shall be issued.

Fire-proof boxes.

The Local Government shall further supply the office of every Registrar with a fire-proof box.

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PART III.

OF REGISTRABLE DOCUMENTS.

17. The instruments next hereinafter mentioned shall be registered, provided the property to which they relate shall be situate in a district in which, and provided they shall have been executed on or after the date on which the said Act No. XVI of 1864 or this Act shall have come or shall come into operation ; that is to say :—

1. Instruments of gift of immovable property :
2. Instruments (other than an instrument of gift) which purport or operate to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest, whether vested or contingent, of the value of one hundred rupees and upwards to or in immovable property :
3. Instruments which acknowledge the receipt or payment of any consideration on account of the creation, declaration, assignment, limitation or extinction of any such right, title or interest, and
4. Leases of immovable property for any term exceeding one year :

Provided that the former part of this section shall not apply to any composition-deed nor to any instrument relating to shares in a Joint Stock Company, notwithstanding that the assets of such Company shall consist in whole or in part of immovable property, nor to any endorsement upon or transfer of any debenture issued by any such Company : Provided also that, so far only as regards the territories respectively under the Governments of the Lieutenant-Governors of Bengal and the North-West Provinces, the Local Government may, by order published in the official Gazette, exempt from the operation of the former part of

Exception of composition-deeds.

And of transfers of shares and debentures in Land Companies.

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this section any leases of immovable property, executed in any particular district or part of a district, the terms granted by which shall not exceed two years and the annual rents reserved by which shall not exceed fifty rupees.

18. Any of the documents next hereinafter mentioned may be registered under this Act ; that is to say :—
Documents of which the registration is optional.

1. Instruments which purport or operate to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest, whether vested or contingent, of a value less than one hundred rupees to or immovable property :

2. Instruments which acknowledge the receipt or payment of any consideration on account of the creation, declaration, assignment, limitation or extinction of any such right, title or interest :

3. Leases of immovable property for any term not exceeding one year, and the pattas and machalkas referred to in section 2 :

4. Awards relating to immovable property :

5. Instruments which purport or operate to create, declare, assign, limit or extinguish any right, title or interest to or immovable property :

6. Wills or authorities to adopt a son :

7. Acknowledgements, agreements, appointments, articles of partnership, assignments, awards, bills of exchange, bills of sale, bonds, composition-deeds, conditions of sale, contracts, covenants, grants, instruments of dissolution of partnership, instruments of partition, powers-of-attorney, promissory notes, releases, settlements, writings of divorcement, and all other documents not hereinbefore mentioned.

19. If any document duly presented for registration be in a language which the registering officer does not understand, and which is not commonly used in the district, he shall refuse to register the document, unless it be accompanied by a true translation into a language commonly used in the district and also by a true copy.

20. It shall be in the discretion of the registering officer to refuse to accept for registration any document in which any interlineation, blank, erasure or alteration shall appear, unless the persons executing the document shall attest with their signatures or initials such interlineation, blank, erasure or alteration : and it shall be the duty of the officer registering such document, at the time of registering the same, to make a note in the Register of such interlineation, blank, erasure or alteration.

21. No instrument relating to immovable property shall be accepted for registration unless it shall contain a description of such property sufficient to identify the same. Houses in towns shall be described as situate on the north or other side of the street or road (mentioning it) to which they front, and by their existing and former occupancies, and by their numbers if the houses in such street or road are numbered. Other houses and lands shall be described by their name, if any, and as being in the territorial division in which they are situate and by their superficial contents, the roads and other properties on which they abut, and their occupancies, and also, whenever it is practicable, by reference to Government map or survey.

Documents containing maps or plans. No document containing a map or plan of any property comprised therein shall be accepted for registration unless it be accompanied by a true copy of the map or plan, or, in case such property shall be situate in several sub-districts, by such number of true copies of the map or plan as shall be equal to the number of sub-districts, and, in case the property shall be also situate in several districts, by such further number of true copies of the map or plan as shall be equal to the number of such districts.

PRRT IV.

OF THE TIME OF REGISTRATION.

22. Subject to the provision contained in section 24, no instrument of the kinds mentioned in section 17, clauses 1, 2, 3 and 4, shall be accepted for registration unless pre-

Time for registering instruments of which the registration is compulsory.

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sent for that purpose to the proper officer within four months from the date of its execution; provided that, where there are several persons executing it at different times, the instrument may be presented for registration and re-registration within four months from the date of each execution.

23. Subject to the provision contained in section 24, no document of any of the kinds mentioned in section 18 (other than a will or authority to adopt a son), shall be accepted for registration unless presented for that purpose to the proper officer within two months from the date of its execution; provided that, where there are several persons executing it at different times, the document may be presented for registration and re-registration within two months from the date of each execution.

Explanation.—The date of execution of a document means the day on which it purports to have been executed.

24. If any instrument shall, owing to urgent necessity or unavoidable accident, not have been presented for registration till after the expiration of the time hereinbefore prescribed in that behalf, it shall be lawful for the Registrar, in cases where the delay in presentation shall not exceed four months, to direct that on payment as a penalty of a sum not exceeding twenty times the amount of the proper registration fee, such instrument shall be accepted for registration.

25. Whenever the last day of any period hereinbefore provided for the registration of any document shall fall on a Sunday or other holiday declared as hereinafter mentioned, such last day shall, for the purposes of this Act, be deemed to be the day immediately following such Sunday or other holiday.

Wills or authorities to adopt may be registered or deposited at any time.

26. Any will or authority to adopt a son may at any time be registered or deposited in manner hereinafter provided,

27. In Act No. XIV of 1859, section 1, clause 10, the last clause shall be read as if for the words "within six months from the date thereof" the words "within the time prescribed in that behalf by "The Indian Registration Act, 1866," were substituted.

28. Nothing in this Act shall be taken to alter the time within which any certificate or other document must be registered under the provisions of "The Bankrupt Law Consolidation Act, 1849," section 143, or any other Act of the Parliament of the United Kingdom of Great Britain and Ireland.

PART V.

OF THE PLACE OF REGISTRATION.

29. Save as in this Act otherwise provided, every instrument mentioned in section 17, clauses 1, 2, 3 and 4, and section 18 clauses 1, 2, 3 & 4 shall be presented for registration in the office of Sub-Registrar within whose sub-district the whole or some portion of the property on which such instrument relates is situate.

30. Every instrument other than an instrument referred to the last preceding section may be presented for registration in the office of the Sub-Registrar in whose sub-district the instrument was executed or in the office of any Sub-Registrar under the Local Government at which all the persons executing and claiming under the instrument shall desire the same to be registered.

31. The Registrar-General may in his discretion receive and register any instrument referred to in section 29, without regard to the situation in any part of British India of the property to which the instrument relates.

32. Any Registrar may in his discretion receive and register any instrument which might be registered by Sub-Registrar subordinate to him. He shall also register wills and authorities to adopt. The Registrar of

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a district including a Presidency-Town shall be deemed to be a Sub-Registrar within the meaning of this Act for such portion of his district (if any) as shall not have been formed into a sub-district.

38. In ordinary cases the registration or deposit of documents under this Act shall be made only at the public office of the officer whose duty it shall be to register the same: but any such officer may on special cause being shown attend at the residence of any person intending to register any document, or of any person desiring to deposit a will or authority to adopt a son, and register or accept for registration or deposit such document, will or authority. Every Sub-Registrar so attending shall within twenty-four hours report to the Registrar to whom he is subordinate the fact of the attendance and his reason therefor.

Registration or acceptance
for deposit at private residence.

PART VI.

OF THE PRESENTATION OF INSTRUMENTS FOR REGISTRATION.

34. Subject to the provisions of the last preceding section, every document to be registered under this Act, whether such registration be compulsory or optional, shall be presented at the proper registration office by some person executing or claiming under the same, or by the representative or assign of such person, or by the agent of such person, representative or assign, duly authorized by power-of-attorney executed and authenticated in manner hereinafter mentioned.

Persons to present docu-
ments for Registration.

35. For the purposes of the last preceding section, the powers-of-attorney next hereinafter mentioned shall alone be recognized; that is to say:—

Powers-of-attorney recogniz-
able for purposes of section. 34

(a) If the principal at the time of executing the power-of-attorney resides in any part of British India in which this Act operates, a power-of-attorney executed before and authenticated by the Registrar or Sub-Registrar within whose district or sub-district the principal resides:

(b) If the principal at the time aforesaid resides in any other part of British India, a power-of-attorney executed before and auth-

authenticated by the Judge of the District Court within the local limits of whose jurisdiction the principal resides:

(c) If the principal at the time aforesaid does not reside in British India, a power-of-attorney executed before and authenticated by a Notary Public or any Court, Judge, Magistrate, British Consul or Vice-Consul, or representative of Her Majesty or of the Government of India.

Any power-of-attorney mentioned in this section may be proved by the production of it without further proof, when it purports on the face of it to have been executed before and authenticated by the person or Court hereinbefore mentioned in that behalf.

Provided that persons who by reason of bodily infirmity are unable without risk or serious inconvenience to attend as next hereinafter mentioned, and persons who are in jail under civil or criminal process, persons

Proviso as to persons infirm, or in jail, or exempt from appearing in Court

exempt by law from personal appearance in Court, shall not be required to attend at the office of the Registrar or Sub-Registrar, or in the Court of the Judge, for the purpose of executing any such power-of-attorney as is mentioned in clauses (a) and (b) of this section; but in every such case the Registrar or Sub-Registrar or Judge (as the case may be), if satisfied that the power-of-attorney has been voluntarily executed by the person purporting to be the principal may attest the same without requiring his personal attendance at the office or Court aforesaid. To obtain evidence as to the voluntary nature of the execution, the Registrar or Sub-Registrar or Judge may either himself go to the house of the person purporting to be the principal or the jail in which he is confined and examine him, or issue a commission for the examination of such person.

36. Subject to the provisions contained in this section and in sections 76, 80, 84 and 89, no document

Enquiry before Registration by the Registering officer.

shall be registered under this Act unless the persons executing such document, or their representatives, assigns, or agents authorized as aforesaid, appear before the registering officer. He shall thereupon enquire whether or not such document was executed by the persons by whom it purports to have been executed, and in the case of any person.

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appearing as a representative, assign or agent, satisfy himself of the right of such person so to appear.

If all the persons executing the document appear personally before the registering officer and are personally known to him, or if he be otherwise satisfied that they are the persons they represent themselves to be, and if they all admit the execution of the document ;

or, in the case of any person appearing by representative, assign or agent, if such representative, assign or agent shall admit the execution;

or, if the person executing the document shall be dead, and his representative, assign or agent shall not appear before the registering officer, or shall refuse to admit the fact of execution, but such officer shall nevertheless be satisfied of the fact of execution ;

The registering officer shall register the document as directed in section 68,

The registering officer may, in order to satisfy himself that the persons appearing before him are the persons they represent themselves to be, or for any other purpose contemplated by this Act, examine any one, whether summoned or not under section 37, present in his office.

PART VII**OF THE ENFORCEMENT OF ATTENDANCE OF EXECUTANTS AND WITNESSES.**

37. If any person presenting any document for registration shall desire the attendance of any person whose presence or testimony is necessary for the registration of such document, the registering officer may, in his discretion, call upon the Revenue Officer in whose jurisdiction the person whose attendance is so desired may be, to issue and serve a summons requiring him to attend at the registration office, either in person or by duly authorised agent, as in the summons may be mentioned and at a time named in such summons.

38. The Revenue Officer, upon receipt of the peon's fee payable in such cases, shall issue the summons accordingly, and cause the same to be served upon the person whose attendance is so required.

39. Any person who by reason of bodily infirmity is unable without risk or serious inconvenience to attend in the registration office, and any person who is in jail under civil or criminal process, and any person exempt by law from personal appearance in Court and who would but for the provision next hereinafter contained be required to attend; in person at the registration office, shall not be required so to attend; but in every such case, the registering officer shall either himself go to the house of such person or to the jail in which he is confined and examine him, or issue a commission for his examination.

40. The law in force for the time being as to summonses, commissions and compelling the attendance of witnesses, and for their remuneration in suits before Civil Courts, shall, save as aforesaid and *mutatis mutandis*, apply to any summons or commission issued and any person summoned to appear under the provisions of this Act.

PART VIII.

OF SENDING TO A REGISTRY OFFICE MEMORANDA OF DECREES.

AND ORDERS AFFECTING IMMOVABLE PROPERTY.

41. When any Civil Court shall by a decree or order declare any document relating to immovable property, which shall have been registered under this Act, to be invalid, or when any Civil Court shall pass a decree or order affecting any such document, and such last mentioned decree or order shall create, declare, transfer, limit or extinguish any right, title or interest under such document to or in the immovable property to which it relates, such Courts shall cause a memorandum of the decree or order to be sent to the Registrar within whose district the document was originally registered.

42. When any Civil Court shall by, a decree or order, create, declare, transfer, limit or extinguish any right, title or interest of any person to or in any immovable property situate any part of British India in which this Act shall operate, such Court

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shall cause a memorandum of the said decree or order to be sent to the Registrar or to every Registrar within whose district the whole or any part of such immovable property is situate, and such memorandum shall so far as may be practicable describe the property in manner required by section 21.

43. The costs of and attending the registration under sections 41 and 42 of any memorandum of a decree or order shall be costs in the cause, and shall be paid by the Court to the Registrar or to such other person and in such way as the Local Government shall direct in that behalf.

PART IX.

OF THE PRESENTATION AND DEPOSIT OF WILLS AND AUTHORITIES TO ADOPT.

44. The testator or any person claiming as executor or otherwise under a will, may present to any Registrar for registration such will, and the donor or donee of any authority to adopt, or the adoptive son, may present to any Registrar for registration such authority. Any person entitled to present for registration any such will or authority may either personally or by a duly authorized agent present to a Registrar such will or authority open, and any testator or donor of such authority may either personally or by duly authorized agent deposit with any Registrar the will or authority in a sealed cover superscribed with the name of the depositor and the nature of the document.

45. If the depositor of any such sealed cover shall wish to withdraw the same, it shall be lawful for him to apply to the registrar in whose office such cover shall have been deposited, that the same be delivered to him; and the Registrar, if he shall be satisfied as to the identity of the depositor with the applicant, shall deliver the cover accordingly.

46. If on the death of the depositor of a sealed cover under section 44, application be made to the Registrar in whose office such cover was

deposited to open the same, the Registrar, if he shall be satisfied that the depositor is dead, shall, in the presence of the person making such application, open the cover and shall copy at the expense of the applicant the contents thereof in his Book No. 4. When such copy shall have been made, the Registrar shall re-deposit the original will or authority.

Re-deposit.

PART X.

OF THE EFFECTS OF REGISTRATION AND NON-REGISTRATION.

47. A registered document shall operate from the time from which it would have commenced to operate if no registration thereof had been required or made, and not from the time of its registration.

Time from which registered document operates.

48. All instruments duly registered under this Act and relating to any moveable or immoveable property, shall take effect against any oral agreement or declaration relating to the same property.

Registered instruments relating to property to take effect against oral agreements.

49. No instrument required by section 17 to be registered shall be received in evidence in any civil proceeding in any Court, or shall be acted on by any public servant as defined in the Indian Penal Code, or shall affect any property comprised therein, unless it shall have been registered in accordance with the provisions of this Act.

Effect of non-registration of documents required to be registered.

50. Every instrument of the kinds mentioned in clauses 1, 2 and 3 of section 18 shall, if duly registered, take effect, as regards the property comprised therein, against every unregistered instrument relating to the same property, whether such other instrument be of the same nature as the registered instrument or not.

Registered instruments relating to immovables, of which the registration is optional, to take effect against unregistered instruments.

51. Suits to recovery money lent or interest, or for the breach of any contract, may be brought within six years from the time when the cause of suit arose, in every case in which

Period of limitation in suits under a registered written contract for money lent, or interest, or breach of contract.

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there is an engagement or contract in writing, provided that such engagement or contract be duly registered under this Act.

SPECIAL REGISTRATION OF OBLIGATIONS FOR PAYMENT OF MONEY.

52. Whenever the obligor and obligee of an obligation shall agree that, in the event of the obligation not being duly satisfied, the amount secured thereby may be recovered in a summary way, and shall at the time of registering the said obligation apply to the registering officer to record the said agreement, the registering officer, after making such enquiries as he may think proper shall record such agreement at the foot of the endorsement and certificate required by sections 66 and 68, and such record shall be signed by him and by the obligor, and shall be copied into the Register. Book No. 1 or No. 6 as the case may be, and shall be *prima facie* evidence of the said agreement.

53. Within one year from the date on which the amount becomes payable, or, where the amount is payable by instalments, within one year from the date on which any instalment becomes payable, the obligee of any such obligation registered with such agreement as aforesaid, whether under the said Act No. XVI of 1864 or under this Act, may present a petition to any Court which would have had jurisdiction to try a regular suit on such obligation for the amount secured thereby, or for the instalment sought to be recovered.

The petition shall, where a stamp is required by law, bear a stamp of one-fourth the value prescribed for a plaint in such a suit, and may be amended by permission of the Court and the statements in the petition shall be verified by the petitioner in manner required by law for the verification of plaints.

On production in Court of the obligation and of the said record signed as aforesaid, the petitioner shall be entitled to a decree for any sum not exceeding the sum mentioned in the petition, together with interest at the rate specified (if any) to the date of the decree, and a sum for costs to be fixed by the Court.

Such decree may be enforced forthwith under the provisions for the enforcement of decrees contained in the Code of Civil Procedure.

54. In any proceedings under this Part of this Act, the Court may order the obligation sought to be deposited in Court, proceeded upon to be forthwith deposited with an officer of the Court, and may further order that all proceedings shall be stayed until the petitioner shall have given security for costs thereof.

55. After decree, the Court may under special circumstances set aside the decree, and if necessary stay or set aside execution ; but there shall be no appeal against any decree or order made under section 53, section 54, or this section.

PART XI.

OF THE DUTIES AND POWERS OF REGISTERING OFFICERS.

(A.) *As to the Register Books and Indexes.*

Register Books to be kept in the several offices.

56. The following Books shall be kept in the several offices hereinafter named ; that is to say :—

In all registration offices :—

Book 1.—“ Register of instruments relating to immovable property.”

Book 2.—“ Record of reasons for refusal to register.”

In the offices of registrars :—

Book 3.—“ Register of deposits of wills and authorities to adopt,” and

Book 4.—“ Register of wills and authorities to adopt.”

In the offices of Registrars and of Sub-Registrars.

Book 5.—“ Register of decrees and orders.”

Book 6.—“ Miscellaneous Register.”

In Book 1 shall be entered all documents registered under section 17 and the first four clauses of section 18, and all other documents mentioned in section 18, clause 7, which relate to immove-

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able property. In Book 5 shall be filed all memoranda of decrees and orders sent under section 42. In Book 6 shall be entered all documents Registered under clauses 5 and 7 of section 18, and not entered in Book 1 or in Book 5: Provided that, if the Registrar-General shall so direct, wherever Act. No. XVI of 1864 is now in force, down to the thirty-first day of December 1866 and no longer, the books directed to be kept by the section 56 of the same Act shall be kept, and the rules relating to the entries made therein and the Indexes to be made therefor shall be observed, anything in this Act contained to the contrary notwithstanding.

57. The day, hour and place of presentation, and the signature of every person presenting a document for registration, shall be endorsed on every such document at the time of presenting the same; and subject to the provision contained in section 70, every such document shall without unnecessary delay be copied in the book appropriated therefor according to the order of its presentation, and a receipt for such document shall be given by the registering officer to the person presenting the same.

58. All entries in each book shall be numbered in a consecutive series which shall commence and terminate with the year, a fresh series being commenced at the beginning of each year.

59. In every office in which any of the books next hereinafter mentioned are kept, there shall be prepared current indexes of the contents of such books; and every entry in such indexes shall be made, so far as practicable, in alphabetical order and immediately after the document to which it relates shall have been copied by the registering officer.

60. Two such indexes shall be made in all registration offices, and shall be named respectively Index No. I and Index No. II. Index No. I shall contain the names and additions of all persons executing and of all persons claiming under every document copied into Books Nos. 1, 3 or 4, and the name of the first plaintiff and first

defendant in the suit in the case of all memoranda filed in Book No. 5. Index No. II shall contain such particulars mentioned in section 21, relating to every such document, as the Registrar-General may from time to time direct in that behalf. A third index to be called Index No. III shall be made by Registrars and Sub-Registrars, and shall contain the names and additions of all persons

Extra particulars in indexes. executing and of all persons claiming

under every document copied into Book No. 6. Indexes Nos I, II and III shall also contain such other particulars, and shall be prepared in such form, as the Registrar-General shall from time to time direct.

61. Every Sub-Registrar shall send to the Registrar to whom he is subordinate, at such intervals not exceeding one month as the Registrar-General shall from time to time direct, two copies of all entries made by such Sub-Registrar during the last of such intervals in indexes Nos. I and II.

Two copies of entries in indexes Nos. I and II to be sent by Sub-Registrar to Registrar.

62. Every Registrar receiving such two copies shall in every month file one of such copies in his Indexes Nos. I and II respectively; and, and at such intervals as the Registrar-General shall from time to time direct, shall send the other of such copies to the General Registry Office.

One of each pair of copies received by Registrar from Sub-Registrar to be filed in Registrar's indexes and the other to be sent to General Registry Office with a copy of entries in Registrar's indexes.

Every Registrar shall also send to the General Registry office a copy of all the entries which he shall have made in his Indexes Nos. I and II respectively during the last of such intervals.

63. On the receipt in the General Registry Office of the copies so sent by the Registrar, they shall be filed in the Indexes Nos. I and II respectively kept in such office.

Copies sent by Registrar to be filed in indexes of General Registry Office.

64. If the Registrar-General shall so direct, an alphabetical index shall be prepared in every registration office at the end of each year of all entries made during the past year in the current indexes in such office; and in every office in which Book No. 2 shall be kept, an

Annual alphabetical index to entries in indexes.

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alphabetical index shall be prepared at the end of each year to the entries made in such book during the past year.

65. Subject to the previous payment of the fees payable in that behalf, the books Nos. 1, 2 and 3 and the Indexes relating to such books shall be at all times open to inspection by any person applying to inspect the same; and, subject to the provisions of section 70, copies of entries in such books shall be given to all persons applying for such copies. Subject to the same provision, copies of entries in Books Nos. 3, 4 and 6 and in the indexes relating thereto shall be given to any person executing or claiming under the documents to which such entries respectively refer; but the requisite search for such entries shall be made only by the registering officer. Such copies shall be signed and sealed by the registering officer and shall be *prima facie* evidence of the contents of the original documents.

(B) *As to the Procedure on admitting to Registration.*

66. In every document admitted to registration there shall be Particulars to be endorsed on documents admitted to registration. endorsed from time to time the following particulars; (that is to say):—

1. The signature and addition of every person admitting the execution of the document; and if such execution shall have been admitted by the representative, assign or agent of any person, the signature and addition of such representative, assign or agent:

2. The signature and addition of every person who may have been examined in reference to such document under any of the provisions of this Act; and

3. Any payment of money or delivery of goods made in the presence of registering officer in reference to the execution of the document, and any admission of receipt of consideration made in his presence in reference to such execution.

67. The registering officer shall affix the date and his signature Such endorsements to be dated and signed by registering officer. to all endorsements mentioned in the last preceding section, relating to the same document and made in his presence on the same day.

66. After the provisions of sections 36, 66 and 67 shall have

Certificate showing that document has been registered, and number and page of book in which it has been copied.

been complied with, the registering officer shall endorse on the document a certificate containing the word "Registered," together with the number and

page of the book in which the document shall have been copied. Such certificate shall be signed, sealed and dated by the registering officer and shall then be *prima facie* evidence that the document has been duly registered in manner provided by this Act, and that the facts mentioned in the endorsement referred to in the last preceding section have occurred as therein mentioned.

66. The endorsements and certificate mentioned in sections 67

Endorsements and certificate to be copied.

and 68 shall thereupon be copied into the margin of the Register Book, and

the copy of the map or plan (if any) mentioned in section 21 shall be filed in Book No. 1. The registration of

Document to be returned.

the document shall thereupon be consi-

dered to be complete, and the document shall then be returned to the person who shall have presented the same for registration, or to such other person (if any) as he shall have nominated in writing in that behalf on the receipt mentioned in section 57.

70. When a document is presented for registration under sec-

Procedure on presentation of a document in a language unknown to the registering officer.

tion 19, the translation shall be transcribed in the register of instruments of the nature of the original, and, together

with the copy referred to in section 19, shall be filed in the registration office; and the endorsements and certificate respectively mentioned in sections 67 and 68 shall be made on the original, and for the purpose of making the other copies required by any section other than section 65, the translation shall be treated as if it were the original.

71. It shall be lawful for every registering officer at his discretion to administer an oath to any person

Power to administer oaths.

examined by him under the provisions of this Act. He may also at his discretion record a note of the substance of the statement made by each such person,

Record of substance of statements.

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and such statement shall be read over, or (if made in a language with which such person is not acquainted) interpreted to him in a language with which he is acquainted, and if he shall admit the correctness of such note, it shall be signed by the registering officer.

(C)—Special Duties of Sub-Registrar.

72. Every Sub-Registrar on registering a document relating to immovable property which is not wholly situated in his own sub-district, shall forward a copy thereof and of the endorsement and certificate thereon, and of the map or plan (if any) mentioned in section 21, to every other Sub-Registrar subordinate to the same Registrar as himself in whose sub-district any part of such property is situate; and every such Sub-Registrar shall file such copies in his Book No. 1.

Procedure on Sub-Registrar's registration of document relating to immovable property situate in several sub-districts.

73. Every Sub-Registrar on registering a document relating to immovable property situate in more districts than one, shall also forward a copy thereof and of the endorsement and certificate thereon, together with such number of copies of the map or plan (if any) mentioned in section 21 as may be necessary, to the Registrar of every district in which any part of such property is situate other than the district in which his own sub-district is situate. The Registrar on receiving the same shall enter in his Book No. 1 the copy of the document and one of the copies of the map or plan (if any), and shall forward a copy of the document together with a copy of the map or plan (if any) to each of the Sub-Registrars subordinate to him within whose sub-district any part of such property is situate; and every Sub-Registrar receiving such copies shall file the same in his Book No. 1.

Procedure on Sub-Registrar's registration of document relating to immovable property situate in several districts.

(D)—Special Duties of Registrar.

74. On registering any instrument relating to immovable property under section 32, the Registrar shall forward a copy of such instrument, together with a copy of the map or plan (if any) mentioned in section 21, to each Sub-Registrar subordinate

Procedure on registering instruments under section 32.

to himself in whose sub-district any part of such property is situate, and he shall also forward a copy of such instrument, together with such number of copies of the map or plan (if any) mentioned in section 21, as may be necessary, to any other Registrar in whose district any part of such property is situate; and every Sub-Registrar and Registrar, on receiving any such copy or copies, shall follow the procedure prescribed for them respectively in section 73.

75. Every memorandum received under section 41 shall be copied in the margin part of the book in which the document affected by such memorandum is registered; and

Procedure on receipt of memorandum under section 41.

for this purpose the Registrar shall send a copy of such memorandum to every sub-Registrar in his district in whose office the said document is registered, who shall copy such memorandum in the margin of the copy of the document registered in his office. When any such memorandum shall relate to immovable property situate in more districts than one, the Registrar receiving the same shall also send a copy thereof to every other Registrar within whose district any part of such property is situate, who shall on receiving such copy follow the procedure prescribed for a Registrar in the first clause of this section. Every memorandum received by a Registrar under

Procedure on receipt of memorandum under section 42.

section 42 shall be filed by him in his

Register Book No. 5, and he shall then send a copy thereof to every Sub-Registrar subordinate to himself in whose Sub-district any part of such property is situate, and every such Sub-Registrar shall file it in his Register Book No. 5.

76. A will and an authority to adopt, presented for Registration by the testator or doner, may be

Registration of wills and authorities to adopt.

registered in the same manner or other document. A will or authority

to adopt presented for registration by any person entitled to present the same, other than the testator or donor, shall be registered if the Registrar shall be satisfied that the person so presenting the same is the person he represents himself to be, and that the will or authority was executed by the testator or donor, as the case may be.

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77. On receiving for deposit a sealed cover under section 44,

Procedure on deposit of wills
or authorities to adopt.

the Registrar if he shall be satisfied that the depositor is the testator or donor, as the case may be, or his duly authorised agent shall transcribe in his Register Book No. 3 the superscription on such sealed cover, and note in the Register and on the sealed cover, the year, month, day and hour of such presentation and receipt, together with the name of the depositor, and the name of each of the persons testifying to the identity of such depositor, and the inscription so far as it is legible on the seal of the cover. The Registrar shall then place and retain the sealed cover in his fire-proof box.

(E) — *Of the Registrar-General.*

78. On any instruments being registered in the General Registry

Procedure on registration in
General Registry Office.

Office, under section 31, a copy of such instrument and of the endorsements and certificate thereon shall be forwarded to every Registrar within whose district any part of the property to which the instrument relates is situate, and the Registrar receiving such copy shall follow the procedure prescribed for him in section 73.

(F) — *Of the Controlling Powers of Registrars and Registrars General.*

79. Every Sub-Registrar shall perform the duties of his office

Registrar to superintend and
control Sub-Registrars.

under the superintendence and control of the Registrar in whose district the office of such Sub-Registrar is situate; and every Registrar shall have authority to issue (whether on complaint or otherwise) any order consistent with this Act which he may consider necessary in respect of any act or omission of any Sub-Registrar subordinate to him, or in respect of the rectification of any error regarding the book or the office in which any document shall have been registered.

80. The Registrar-General shall exercise a general superintendence over all the registry offices in the

Power of Registrar-General.
Powers to frame Rules.

territories administered by the Local Government, and shall have power from time to time to frame rules consistent with this Act—

For providing for the safe custody of books, papers and documents, and also for the destruction of such books, papers and documents as need no longer be kept;

For declaring the languages in which and the materials on, in and with which documents presented for registration are to be written or printed, the size of such documents and the extent of blank space to be left thereon ;

For declaring what territorial divisions shall be recognized under section 21 ;

For regulating the amount of penalties imposed under section 24 ;

For the exercise of the discretion reposed in the registering officer by sections 52 and 71 ;

For declaring the particulars to be contained in Indexes No. I, II and III respectively ;

For declaring the holidays that shall be observed in the registration offices ;

And generally, for regulating the proceedings of the Registrars and Sub-Registrars under him.

The rules so framed shall be submitted to the Local Government for approval, and after they shall have been approved, they shall be published in the Official Gazette, and shall then have the same force as if they were inserted in this Act.

No order to cancel registration. 81. No order shall be made to cancel the registration of any document under this Act or under Act No. XVI of 1864.

PART XII.

OF REFUSAL TO REGISTER.

82. Every registering officer who shall refuse to register a document, except one which he has a discretion to refuse to accept for registration, or except one which he has refused to register solely because the property to which it relates is not situate within his district or sub-district, shall make an order of refusal and record his reasons for such order in his Book No. 2 and endorse the words "Registration refused" on the document ; and on application made by any person executing or claiming under the document and on his furnishing a stamped paper of the value of eight annas, shall without unnecessary delay give him a copy of the reasons so recorded. No registering officer shall accept for registration

Reasons for refusal to register to be recorded by Registrar or Sub-Registrar.

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a document so endorsed unless and until an appeal shall have been presented under the provisions herein contained and decided in favour of the appellant.

83. An appeal shall lie against an order of a Sub-Registrar refusing to admit a document to registration whether the registration of such document is compulsory or optional) to the Registrar to whom such Sub-Registrar is subordinate if presented to such Registrar within thirty days from the date of the order, and the Registrar may reverse or alter such order : Provided that, whenever the Registrar shall himself as Sub-Registrar have passed the order appealed against, the appeal shall lie to the Registrar-General. Any Registrar or Registrar-General who shall refuse to direct the registration of any document shall make an order of refusal and record the reasons for such order in his Book No. 2, and on application made by any person executing or claiming, under the document and on his furnishing a stamped paper of the value of eight annas, shall without unnecessary delay give him a copy of the reasons so recorded.

84. If a Registrar or Registrar-General shall under section 82 make an order of refusal to register any document referred to in section 29, or if a refusal to register shall have been made under section 15 of Act XVI of 1864, or if he shall under section 83 on appeal make an order of refusal to direct the registration of such document, it shall be lawful for any person claiming there under, his representative, assign or agent authorized as aforesaid, within thirty days after the making of such order of refusal, to apply by petition to the District Court, in order to establish his right to have such document registered.

The petition shall be in the form contained in the Schedule to this Act or as near thereto as circumstances will permit, and shall be accompanied by copies of the reasons recorded under sections 82 and 83, and the statements in the petition shall be verified by the petitioner in manner required by law for the verification of complaints, and the petition shall, To be verified and stamped.

where a stamp is required by law, bear a stamp of eight annas, and may be amended by permission of the Court.

The document shall be admissible in evidence on the presentation and hearing of the petition, any thing herein before contained to the contrary notwithstanding.

The Court shall fix a day for the hearing of the petition not less than two days after the service, next herein after mentioned, and shall direct a copy of the petition, with a notice at the foot thereof of the day so fixed, to be served on the registering officer and on such other persons (if any) as the Court shall think fit; and the provisions of the Code of Civil Procedure as to the service and endorsement of summonses shall apply, *mutatis mutandis*, to copies of petitions under this section.

On the day so fixed as aforesaid, the Court may, if it shall think proper, and if the requirements of the law for the time being in force, have been complied with, on the part of the petitioner so as to entitle the document to registration, order such Registrar or Registrar-General to register the document, or to direct its registration in the proper manner, and he shall thereupon obey such order, and shall, so far as may be practicable, follow the procedure prescribed in sections 66, 67, and 68, and (provided the document be duly presented for registration within thirty days after the making of such order) the registration pursuant to such order shall take effect as if the document had been registered when it was duly presented for registration to the officer so refusing as aforesaid.

Provided that when the officer presiding over the District Court shall himself as registering officer have made any order appealed against under this section, the petition shall within sixty days after the making of such order be presented to the High Court, and the provisions contained in the former part of this section shall, *mutatis mutandis*, apply to such petition and the order (if any) thereon.

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Registering officer not to be liable for any thing *bond fide* done or refused in his official capacity.

refused in his official capacity.

85. No registering officer shall be liable to any suit, claim or demand by reason of anything *bond fide* done or

PART XIII.

(OF THE FEES FOR REGISTRATION, SEARCHES AND COPIES.)

Fees for registration, searches and copies to be fixed by Local Government.

86. Subject to the approval of the Governor General of India in Council, the Local Government shall prepare a table of fees payable—

For the registration of documents :

For searching the registers :

For making or granting copies of reasons, entries or documents, before, on, or after registration :

And of extra or additional fees payable—

For every registration by a Registrar-General under section 31, or by Registrar under section 32 :

For special registration under section 52 :

For the issue of commissions :

For filing translations :

For attending at private residences :

And for such other matters as shall to the Local Government appear necessary to effect the purposes of this Act.

The Local Government may from time to time, subject to the like approval, alter such table. A table

of the fees so payable shall be published in the Official Gazette, and a copy thereof in English and the vernacular language of the district shall be exposed to public view in every registration office.

87. All fees for the registration of documents under this Act

shall be payable on presentation, and all fees received under the provisions of this Act (not being fees payable under section 14 to officers who are paid wholly or in part by fees), and all penalties received under section 24, shall be remitted to the treasury of the district or sub-

district or to such other treasury as the Local Government shall from time to time direct, and shall be credited to Government.

PART XIV.

MISCELLANEOUS.

88. Nothing done in good faith pursuant to the said Act No. XVI of 1864 or this Act by any registering officer, shall be deemed invalid merely by reason of any defect in his appointment or procedure.

89. Notwithstanding any thing herein contained, it shall not be necessary for any officer of Government, or for the Administrator-General of Bengal, Madras or Bombay, or from any Official Trustee, or for the Sheriff, Receiver or Registrar of a High Court, to appear in person or by agent at any registration office in any proceeding connected with the registration of any instrument executed by him in his official capacity, or to sign as provided in section 66; but when any instrument is so executed, the registering officer to whom such instrument is presented for registration may, if he think fit, refer to any Secretary of Government or to such officer of Government, Administrator-General, Official Trustee, Sheriff, Receiver or Registrar, as the case may be, for information respecting the same, and, on being satisfied of the execution thereof, shall register the instrument.

90. Every registering officer appointed under this Act and every person employed in his office for the purposes of this Act, who, being charged with the endorsing, copying, translating or registering of any document presented or deposited under the provisions of this Act, shall endorse, copy, translate or register such document in a manner which he knows or believes to be incorrect, intending thereby to cause, or knowing it to be likely that he may thereby cause, injury

Nothing done by registering officer to be invalidated by defect in his appointment or procedure.

Registration of instruments executed by Government officers or certain public functionaries.

Penalty for incorrectly copying, endorsing, translating or registering documents with intent to injure.

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as defined in the Indian Penal Code to any person, shall be punished with imprisonment for a term which may extend to seven years, or with fine, or with both.

91. Whoever shall intentionally make any false statement, whether on oath or not, and whether it shall have been recorded or not, before any officer acting in execution of this Act, in any proceeding or enquiry under this Act, shall be punished with imprisonment for a term which may extend to seven years, and shall also be liable to fine.

92. Whoever shall intentionally deliver to a registering officer in any proceeding under section 19 or 21 a false copy or translation of a document, or a false copy of a map or plan shall be punished with imprisonment, for a term which may extend to seven years, and shall also be liable to fine.

93. Whoever falsely personates another, and in such assumed character presents any document, or makes any admission or statement, or causes any summons or commission to be issued, or does any other act in any proceeding under this Act, shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

94. Whoever abets within the meaning of the Indian Penal Code anything made punishable by this Act shall be punished with imprisonment for a term which may extend to seven years, or with fine, or with both.

95. A prosecution for any offence under this Act coming to the knowledge of a registering officer in his official capacity may be instituted by the Registrar-General, the Branch Registrar-General, the Registrar or (with the sanction of the Registrar to whom he is subordinate) the Sub-Registrar in whose territories, district or sub-district, as the case may be, the offence has been committed. All prosecutions under this Act shall be instituted

before a person exercising the powers of a Magistrate or Subordinate Magistrate of the First Class; and all fines imposed under this Act may be recovered in the manner prescribed in section 61 of the Code of Criminal Procedure.

96. Every registering officer appointed under this Act shall be deemed a public servant within the meaning of the Indian Penal Code, and every person shall be legally bound to furnish information to such registering officer when required by him to do so. And in section 228 of the Indian Penal Code the words "judicial proceeding" shall be taken to include any proceeding under this Act.

References to Act No. XVI of 1864 to be read as if made to this Act.

97. All references to the said Act No. XVI of 1864, in Acts passed previous to the date of this Act coming into operation shall be read as if made to this Act.

98. This Act shall come into operation on the first day of May 1866 wherever Act No. XVI of 1864 is now in force. This Act shall come into operation on the same day in the territories under the Bombay Government, known as the Panch Mahals and attached to the Collectorate of Karia, and on the first day of July 1866 in the Province of Sindh; and Act No. XVI of 1864 shall not be deemed to have come into operation in such territories or province, any notification of the Local Government to the contrary notwithstanding. This Act may be extended to any other part of British India by an order of the Local Government, to be notified in the Official Gazette; and such order may, at any time before such extension shall come into operation, be altered or cancelled.

Power to extend Act to other territories.

99. From the date on which this Act shall be extended as hereinafore provided to any part of British India in which the Acts hereinbefore mentioned are not in force, all Rules and Regulations relating to the registration of assurances in force in

Repeal of Rules relating to registration in certain territories.

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such part of British India shall cease to have effect, except as regards document duly registered under any of such Rules or Regulation.

100. Anything contained in this Act to the contrary notwithstanding, every instrument of the kinds mentioned in sections 17 and 18, which shall have been executed in any such part of British India before the date on which this Act shall come into operation therein, shall be accepted for registration if it be duly presented for registration within twelve months from such date.

Time for registering instruments executed in such territories before extension of this Act.

101. For three months after the date, on which this Act shall come into operation in any part of India in which Act No. XVI of 1864 has not come into operation, a power-of-attorney not duly executed according to the provisions of section 35, anything therein contained to the contrary notwithstanding, shall be deemed to have been duly executed under the provisions of the same section, if the registering officer shall be satisfied that it has been executed in good faith, and if a power-of-attorney attested under the provisions of this Act cannot be obtained within the period, during which the document sought to be registered can, under such provisions, be accepted for registration.

Recognition in territories in which Act XVI of 1864 is not in force, for three months, of power-of-attorney not duly executed.

102. All or any of the Register-Books and Indexes kept under this Act or the said Act No. XVI of 1864, or any Act, Rule or Regulation repealed by either of them, may be transferred to the custody of the Registrar of the district in which they are now preserved, or to such other officer in that or any other district as the Local Government shall from time to time direct, and all Rules contained in or made pursuant to this Act shall, so far as they may be applicable, apply to the Books and Indexes so transferred as aforesaid.

Registers kept under former enactments to be transferred to Registrar of the district.

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Form of petition under section 84.



To the Judge of the District Court of.....

The..... day of.....19 .

The petition of A B. of.....

Sheweth:—

1. That by an instrument dated the.....day of.....and made between C. D. of the one part and your petitioner of the other part, certain lands were conveyed to your petitioner absolutely.

2. That such instrument was executed by the said C. D. on theday of.....19 .

3. That the property to which such instrument relates is situate in the sub-district of the Sub-Registrar of... ..and in the district of.....

4. That on the... ..day ofyour petitioner presented the said instrument for registration under “The Indian Registration Act, 1866,” in the office of the said Sub-Registrar and on such presentation the said C. D. appeared personally before the said Sub-Registrar, and admitted the execution of the said instrument [or and falsely denied the execution of the said instrument].

5. That the said C. D. is personally known to the said Sub-Registrar [or adduced evidence that he was the person he represented himself to be, or that your petitioner adduced evidence that the said C. D. was the person he represented himself to be.]

6. That the said Sub-Registrar thereupon made an order of refusal, dated the.....day of19....., to register the said instrument, and gave your petitioner a copy, which is filed herewith, of the reasons for such order.

7. That your petitioner on the..... day ofappealed to the Registrar of.....against such order.

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8. That the said Registrar thereupon made an order of refusal, dated the..... day of.....to direct the registration of the said instrument, and gave your petitioner a copy, which is filed herewith, of the reasons for such order.

9. That the reasons referred to in paragraphs 6 and 8 are, as your petitioner submits, insufficient, [or that your petitioner has complied with the requirements of the said Act so far as it has been possible for him to do so.]

Your petitioner therefore prays that your Honor will order the said Sub-Registrar to register the said instrument.

A. B.

Form of verification

I, A. B., the petitioner named in the above petition, do declare that what is stated therein is true to the best of my information and belief.

(Signed A. B.)

THE INDIAN REGISTRATION ACT, 1871.

ACT VIII OF 1871.

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Appendix.

ARRANGEMENT OF SECTIONS.

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(B)—As to the Procedure on admitting to Register.

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60. Certificate showing that document has been registered and number and page of book in which it has been copied.
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62. Procedure on presenting document in language unknown to registering officer.
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(C)—Special Duties of Sub-Registrar.

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ACT No. VIII OF 1871.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

Received the assent of the Governor-General on the 24th March 1871).

An Act for the Registration of Documents.

WHEREAS it is expedient to consolidate and amend the laws relating to the registration of documents;
Preamble. It is hereby enacted as follows :—

PART I.

PRELIMINARY.

Short title. 1. This Act may be called 'The Indian Registration Act, 1871.'

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Local extent. It extends to the whole of British India, except such districts or tracts of country as the Local Government may from time to time, with the previous sanction of the Governor-General in Council, exclude from its operation ;

Commencement. And it shall come into force on the first day of July 1871.

Repeal of enactments. 2. On and from that day the enactments mentioned or referred to in the first schedule hereto annexed shall be repealed to the extent specified in the third column of the same schedule.

But all appointments, notifications, rules and orders made, and all offices established, under any of the said enactments shall be deemed to have been, respectively, made and established under this Act, except in so far as such rules and orders may be inconsistent herewith.

References made in Acts passed before the first day of July 1871, to any enactment hereby repealed, shall be read as if made to the corresponding section of this Act.

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And nothing herein contained affects Act No. XX of 1866, so far as relates to the procedure upon my agreement recorded under section 52 of that Act at any time before that day, or the procedure provided by that Act for the registration and deposit of authorities to adopt executed before the first day January 1872.

And so for as regards suits instituted before the first day of April 1873, nothing herein contained affects Act No. XIV of 1859, section 1, clause 10, as amended by Act No. XX of 1866, section 27.

Interpretation clause.

3. In this Act, unless there be something repugnant in the subject or context—

"Lease."

"Lease" includes a counterpart, a kabuliat, an undertaking to cultivate or occupy, and an agreement to lease :

"Signature." "Signed."

"Signature" and "signed" include and apply to the affixing of a mark :

"Immovable property" includes land, buildings, rights to ways, lights, ferries, fisheries or any other benefit to arise out of land, and

things attached to the earth, or permanently fastened to any thing which is attached to the earth but not standing timber, growing crops, nor grass ;

"Movable property" includes standing timber, growing crops and grass, fruit upon and juice in trees, and property of every other description

except immovable property :

"Book" includes a portion of a book and also any number of sheets connected together with a view of forming a book or portion of a book :

"Book."

"Endorsement" and "endorsed" include and apply to an entry in writing by a registering officer on a rider or covering slip to any document tendered for registration under this Act :

"Minor"

"Minor" means a person who, according to the personal law to which he is subject, has not attained majority :

"Representative."

"Representative" includes the guardian of a minor and the committee or other legal curator of a lunatic or idiot.

"Addition."

"Addition" means the place of residence, and the profession, trade, rank and title (if any) of a person described, and, in the case of a native, his caste (if any) and his father's name, or where he is usually described as the son of his mother, then his mother's name :

"District Court."

"District Court" includes the High Court in its ordinary original civil jurisdiction ; and

"District." "Sub-District."

"District" and "Sub-District" respectively mean a district and sub-district formed under this Act.

PART II.

OF THE REGISTRATION ESTABLISHMENT.

4. The Local Government shall appoint an officer to be the Inspector-General of Registration for the territories subject to such Government,

or may, instead of making such appointment, direct that all or any of the powers and duties hereinafter conferred and imposed upon the Inspector-General shall be exercised and performed by such officer or officers, and within such local limits, as the Local Government from time to time appoints in this behalf.

The Governor of Bombay in Council may also, with the previous consent of the Governor-General in Council, appoint an officer to be Branch Inspector-General of Sindh, who shall have all the powers of an Inspector-General, under this Act other than the power to frame rules hereinafter conferred.

Any Inspector-General of the Branch Inspector-General of Sindh may hold simultaneously any other office under Government

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5. For the purposes of this Act, the Local Government shall form districts and sub-districts, and shall prescribe, and may from time to time alter, the limits of such districts and sub-districts.

The districts and sub-districts formed under this section, together with the limits thereof, and every alteration of such limits, shall be notified in the local official Gazette.

Every such alteration shall take effect on such day after the date of the notification as is therein mentioned.

6. The Local Government may appoint such persons, whether public officers or not, as it thinks proper, to be Registrars of the several districts, and to be Sub-Registrars of the several sub-districts, formed as aforesaid, respectively.

7. The Local Government shall establish in every district an office to be styled the office of the Registrar and in every sub-district an office to be styled the office of the Sub-Registrar.

and may amalgamate with any office of a Registrar any office of a Sub-Registrar.

8. The Local Government may also appoint officers to be called Inspectors of registration-offices, and may from time to time prescribe the duties of such officers. Every such Inspector shall be subordinate to the Inspector-General.

9. Every military cantonment where there is a Cantonment Magistrate may (if the Local Government so directs) be, for the purposes of this Act, a sub-district or a district, and such Magistrate shall be the Sub-Registrar or the Registrar of such sub-district or district, as the case may be.

Whenever the Governor-General in Council declares any military cantonment beyond the limits of British India to be a sub-district or a district for the purposes of this Act, he shall also declare, in the case of a sub-district, what authorities shall be Registrar of the district and Inspector-General, and in the case of a district, what

authority shall be Inspector-General, with reference to such cantonment and the Sub-Registrar or Registrar thereof.

[Omitted in Act III of 1877.]

10. Whenever any Registrar other than the Registrar of a district including a Presidency-Town, is absent otherwise than on duty in his district, or when his office is temporarily vacant,

Absence of a Registrar from his district or vacancy in his office.

any person whom the Inspector-General appoints in this behalf, or, in default of such appointment, the Judge of the District Court within the local limits of whose jurisdiction the Registrar's office is situate, shall be the Registrar during such absence or until the Local Government fills up the vacancy.

Whenever the Registrar of a district including a Presidency-Town is absent otherwise than on duty in his district, or when his office is temporarily vacant,

any person whom the Inspector-General appoints in this behalf shall be the Registrar during such absence, or until the Local Government fills up the vacancy.

11. Whenever any Registrar is absent from his office on duty in his district, he may appoint any Sub-Registrar or other person in his district to perform, during such absence, all the duties of a Registrar, except those mentioned in sections 68 and 72.

Absence of Registrar on duty in his district.

Whenever any Sub-Registrar is absent, or when his office is temporarily vacant,

Absence of Sub-Registrar or vacancy in his office.

any person whom the Registrar of the district appoints in this behalf shall be Sub-Registrar during such absence, or until the Local Government fills up the vacancy.

13. All appointments made under section 10, section 11, or section 12 shall be reported to the Local Government by the Inspector-General. Such report shall be either special or general, as the Local Government directs.

Appointments under sections 10, 11 or 12 to be reported to Government.

The Local Government may suspend, remove or dismiss any person appointed under the provisions of this Act, and appoint another person in his stead.

Suspension, removal and dismissal of registering officers.

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14. Subject to the approval of the Governor-General in Council, the Local Government may assign such salaries as such Government from time to time deems proper to the registering officers appointed under this Act, or provide for their remuneration by fees, or partly by fees and partly by salaries.

The Local Government may allow proper establishments for the several offices under this Act.

15. The several Registrars and Sub-Registrars shall use a seal bearing the following inscription in English and in such other language as the Local Government directs :—“The seal of the Registrar (or of the Sub-Registrar) of.....”

16. The Local Government shall provide for the office of every registering officer the books necessary for the purposes of this Act.

The books so provided shall contain the forms from time to time prescribed by the Inspector-General, with the sanction of the Local Government, and the pages of such books shall be consecutively numbered in print, and the number of pages in each book shall be certified on the title page by the officer by whom such books are issued.

The Local Government shall supply the office of every Registrar with a fire-proof box, and shall in each district make suitable provision for the safe custody of the records connected with the registration or documents in such district.

PART III.

OF REGISTRABLE DOCUMENTS.

17. The documents next hereinafter mentioned shall be registered, if the property to which they relate is situate in a district in which, and if they have been executed on, or after the date on which, Act No. XVI. of 1864, or Act No. XX of 1866, or this Act came or comes into force (that is to say),—

(1) Instruments of gift of immovable property :

(2) Other instruments* (not being wills) which purport to operate to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest, whether vested or contingent, of the value of one hundred rupees and upwards, to or in immovable property :

(3) Instruments (not being wills) which acknowledge the receipt or payment of any consideration on account of the creation, declaration, assignment, limitation or extinction of any such right, title or interest ; and

(4) Leases of immovable property from year to year, or for any term exceeding one year, or reserving a yearly rent :

Provided that the Local Government may, by order published in the official Gazette, exempt from the operation of the former part of this section any leases executed in any district, or part of a district, the terms granted by which do not exceed five years and the annual rents reserved by which do not exceed fifty rupees.

Exception of position-deeds ; Nothing in clauses (2) and (3) of this section applies

(a) to any composition-deed,

(b) to any instrument relating to shares in a Joint Stock Company and of transfers of shares and debentures in Land Companies. notwithstanding that the assets of such Company consist in whole or in part of immovable property, or

(c) to any endorsement upon or transfer of any debenture issued by any such Company.†

Authorities to adopt. Authorities to adopt a son, executed after the first day of January 1872 and not conferred by a will, shall also be registered.

Documents of which the registration is optional. 18. Any of the documents next hereinafter mentioned may be registered under this Act (that is to say),—

(1) Instruments (other than instruments of gift and wills) which purport or operate to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest, whether vested or contingent, of a value less than one hundred rupees, to or in immovable property :

* The word "non-testamentary" is used throughout Act III of 1877 instead of this and similar phrases.

† Several new clauses have been added by Act III of 1877.

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(2) Instruments acknowledging the receipt or payment of any consideration on account of the creation, declaration, assignment, limitation or extinction of any such right, title or interest :

(3) Leases of immovable property for any term not exceeding one year, and leases exempted under section 17 :

(4) Awards relating to immovable property :*

(5) Instruments which purport or operate to create, declare, assign, limit or extinguish any right, title, or interest to or in movable property :

(6) Wills :

(7) Acknowledgments, agreements, appointments, articles of partnership, assignments, awards, bills of exchange, bills of sale, bonds, composition-deeds, conditions of sale, contracts, certified copies of decrees and orders of Courts, covenants, grants, instruments of dissolution of partnership, instruments of partition, powers-of-attorney, promissory notes, releases, settlements, writings of divorcement, and all other documents not hereinbefore mentioned.

19. If any document duly presented for registration be in a language which the registering officer does not understand, and which is not commonly used in the district, he shall refuse to register the document, unless it be accompanied by a true translation into a language commonly used in the district and also by a true copy.

20. The registering officer may in his discretion refuse to accept for registration any document in which any interlineation, blank, erasure or alteration appears, unless the persons executing the document attest with their signatures or initials such interlineation, blank, erasure or alteration. If he register such document, he shall, at the time of registering the same, make a note in the register of such interlineation, blank, erasure or alteration.

21. (a) No document not testamentary relating to immovable property shall be accepted for registration unless it contains a description of such property sufficient to identify the same.

* Awards and all other documents specified in clause 7 have been included by Act III of 1877 under the heading "All other documents not required by section 17 to be registered."

(b) Houses in towns shall be described as situate on the north or other side of the street or road (mentioning it to which they front, and by their existing and former occupancies, and by their numbers if the houses in such street or road are numbered. Other houses and lands shall be described by their name, if any, and as being in the territorial division in which they are situate, and by their superficial contents, the roads and other properties on which they abut, and their existing occupancies, and also, whenever it is practicable, by reference to a Government map or survey.

(c) No document not testamentary containing a map or plan of any property comprised therein shall be accepted for registration unless it be accompanied by a true copy of the map or plan, or, in case such property is situate in several districts, by such number of true copies of the map or plan as are equal to the number of such districts.

Documents contain-
ing maps or plans.

22. Failure to comply with the provisions contained in section 21 clause (b), shall not disentitle a document to be registered if the description of the property to which it relates is sufficient to identify such property.

Failure to comply
with rules as to de-
scription of houses
and land.

PART IV.

OF THE TIME OF PRESENTATION.

23. Subject to the provisions contained in sections 24, 25 and 26 no document* required by section 17 to be registered, and no document mentioned in section 18, other than a will, shall be accepted for registration unless presented for that purpose to the proper officer within four months from the date of its execution,

Time for presenting
documents of which
registration com-
pulsory.

or, in the case of a copy of a decree or order, within four months from the day on which the decree or order was made, or, where it is appealable, within four months from the day on which it becomes final :

Provided that, where there are several persons executing a document at different times, such document may be presented for registration and re-registration within four months from the date of each execution.

* Other than a will. Act III of 1887.

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24. If owing to urgent necessity or unavoidable accident, any document executed, or copy of a decree or order made, in British India is not presented for registration till after the expiration of the time hereinbefore prescribed in that behalf, the Registrar, in cases where the delay in presentation does not exceed four months, may direct that, on payment of a fine not exceeding ten times the amount of the proper registration fee, such document shall be accepted for registration.

Any application for such direction may be lodged with a Sub-Registrar, who shall forthwith forward it to the Registrar to whom he is subordinate.

25. When a document purporting to have been executed by all or any of the parties out of British India is not presented for registration till after the expiration of the time hereinbefore prescribed in that behalf, the registering officer, if satisfied,

- (1) that the instrument was so executed, and
- (2) that it has been presented for registration within four months after its arrival in British India,

may, on payment of the proper registration fee, accept such document for registration.

26. Whenever a registration-office is closed on the last day of any period hereinbefore provided for the presentation of any document, such last day shall, for the purposes of this Act, be deemed to be the day on which the office re-opens.

27. A will may at any time be presented for registration or deposited in manner hereinafter provided.

PART V.

OF THE PLACE OF REGISTRATION.

28. Save as in this Part otherwise provided, every document mentioned in section 17, clauses (1), (2), (3) and (4), and section 18, clauses (1), (2), (3) and (4), shall be presented for registration in the office of a

Place for registering documents relating to land.

Sub-Registrar within whose sub-district the whole or some portion of the property to which such document relates is situate.

29. Every document other than a document referred to in section 28 and a copy of a decree or order, may be presented for registration either in the office of the Sub-Registrar in whose sub-district the document was executed, or in the office of any other Sub-Registrar under the Local Government at which all the persons executing and claiming under the document desire the same to be registered.

A copy of a decree or order may be presented for registration in the office of the Sub-Registrar in whose sub-district the original decree or order was made, or, where the decree or order does not affect immovable property, in the office of any other Sub-Registrar under the Local Government at which all the persons claiming under the decree or order desire the copy to be registered.

30. (a) Any Registrar may in his discretion receive and register any document which might be registered by any Sub-Registrar subordinate to him.

(b) The Registrar of a district including a Presidency-Town* may receive and register any document referred to in section 28 without regard to the situation in any part of British India of the property to which the document relates.

31. In ordinary cases the registration or deposit of documents under this Act shall be made only at the office of the officer† whose duty it is to register the same.

But such officer may on special cause being shown attend at the residence of any person intending to register any document which would ordinarily be registered at such office, or of any person desiring to deposit a will, and register or accept for registration or deposit such document or will.

* And the Registrar of the Lahore district.

† Act III of 1877 has amended this ; "authorised to accept the same for registration or deposit."

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PART VI.

OF PRESENTING DOCUMENTS FOR REGISTRATION.

32. Except in the case mentioned in section 31 every document to be registered under this Act, whether such registration be compulsory or optional, shall be presented at the proper registration-office,

Persons to present documents for registration.

by some person executing or claiming under the same, or, in the case of a copy of a decree or order, claiming under the decree or order,

or by the representative or assign of such person,

or by the agent of such person, representative or assign, duly authorized by power-of-attorney executed and authenticated in manner hereinafter mentioned.

33. For the purposes of section 32 the powers-of-attorney next hereinafter mentioned shall alone be recognized (that is to say),—

Powers-of-attorney recognizable for purposes of section 32.

(a) if the principal at the time of executing the power-of-attorney resides in any part of British India in which this Act is for the time being in force, a power-of-attorney executed before and authenticated by the Registrar or Sub-Registrar within whose district or sub-district the principal resides :

(b) if the principal at the time aforesaid resides in any other part of British India, a power-of-attorney executed before and authenticated by any Magistrate :

(c) if the principal at the time aforesaid does not reside in British India, a power-of-attorney executed before and authenticated by a Notary Public, or any Court, Judge, Magistrate, British Consul or Vice-Consul, or representative of Her Majesty or of the Government of India :

Provided that the following persons shall not be required to attend at any registration-office or Court for the purpose of executing any such power-of-attorney as is mentioned in clauses (a) and (b) of this section :—

Proviso as to persons infirm, or in jail, or exempt from appearing in Court.

persons who by reason of bodily infirmity are unable without risk or serious inconvenience so to attend ;

persons who are in jail under civil or criminal process ; and

persons exempt by law from personal appearance in Court.

In every such case the Registrar or Sub-Registrar or Judge* (as the case may be), if satisfied that the power-of-attorney has been voluntarily executed by the person purporting to be the principal, may attest the same without requiring his personal attendance at the office or Court aforesaid.

To obtain evidence as to the voluntary nature of the execution, the Registrar or Sub-Registrar or* Judge may either himself go to the house of the person purporting to be the principal, or to the jail in which he is confined, and examine him, or issue a commission for his examination.

Any power-of-attorney mentioned in this section may be proved by the production of it without further proof, when it purports on the face of it to have been executed before and authenticated by the person or Court hereinbefore mentioned in that behalf.

34. Subject to the provisions contained in this Part and in sections 41, 43, 45, 69†, 76, and 86‡, no document shall be registered under this Act, unless the persons executing such document, or their representatives, assigns or agents authorized as aforesaid, appear before the registering officer within the time allowed for presentation : ‡

Provided that if owing to urgent necessity or unavoidable accident all such persons do not so appear, the Registrar, in cases where the delay in appearing does not exceed four months, may direct that on payment of a fine not exceeding ten times the amount of the proper registration fee, the document may be registered. §

Such appearances may be simultaneous or at different times.

The registering officer shall thereupon--

(a) enquire whether or not such document was executed by the persons by whom it purports to have been executed,

(b) satisfy himself as to the identity of the persons appearing before him and alleging that they have executed the document, and

(c) in the case of any person appearing as a representative, assign or agent, satisfy himself of the right of such person so to appear. §

* Act III of 1877—"Magistrate" not "Judge."

† The sections in Act III of 1877 after 69 are 75, 77, 88, and 89.

‡ Under sections 23, 24, 25, 26 of Act III of 1877.

§ Act III of 1877 makes provisions for lodging applications under the above proviso with any Sub-Registrar who shall forward it to the Registrar.

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35. If all the persons executing the document appear personally before the registering officer and are personally known to him, or if he be otherwise satisfied that they are the persons they represent themselves to be, and if they all admit the execution of the document ;

or, in the case of any person appearing by a representative, assign or agent, if such representative, assign or agent admits the execution ;

or, if the person executing the document is dead, and his representative or assign appears before the registering officer, and admits the execution,

the registering officer shall register the document as directed in sections 58 to 61 inclusive.

The registering officer may, in order to satisfy himself that the persons appearing before him are the persons they represent themselves to be, or for any other purpose contemplated by this Act, examine any one present in his office.

If (all or) any of the persons by whom the document purports to be executed deny its execution,

or if any such person appears to be a minor, and idiot, or a lunatic,

or if any person by whom the document purports to be executed is dead, and his representative or assign denies its execution,

the registering officer shall refuse to register the document.†

[Nothing in section 31, or the former part of this section, applies to copies of decrees or orders.]

[This is omitted in Act III of 1877.]

PART VII.

OF ENFORCING THE APPEARANCE OF EXECUTANTS AND WITNESSES.

36. If any person presenting any document for registration* desires the appearance of any person whose presence or testimony is necessary for the registration of such document, the registering officer

Procedure where appearance of executant or witness is desired.

† As to the person so denying, appearing or dead, *vide* Act XII of 1879.

* Act III of 1877 adds "or claiming under any document which is capable being so presented."

may, in his discretion, call upon such officer or Court as the Local Government from time to time directs in this behalf to issue a summons requiring him to appear at the registration-office, either in person or by duly authorized agent, as in the summons may be mentioned, and at a time named therein.

37. The officer or Court, upon receipt of the peon's fee payable in such cases, shall issue the summons accordingly, and cause it to be served upon the person whose appearance is so required.

Officer or Court to issue and cause service of summons.

38. A person who by reason of bodily infirmity is unable without risk or serious inconvenience to appear at the registration office,

Persons exempt from appearance at registration-office.

a person in jail under civil or criminal process,

and persons exempt by law from personal appearance in Court, and who would but for the provision next hereinafter contained be required to appear in person at the registration-office.

shall not be required so to appear.

In every such case, the registering officer shall either himself go to the house of such person, or to the jail in which he is confined, and examine him, or issue a commission for his examination.

39.* The law in force for the time being as to summons, commissions and compelling the attendance of witnesses, and for their remuneration in suits before Civil Courts shall, save as aforesaid and *mutatis mutandis*, apply to any summons or commission issued, and any person summoned to appear under the provisions of this Act.

Law as to summonses, commissions and witnesses.

PART VIII.

OF PRESENTING WILLS AND AUTHORITIES TO ADOPT.

40. The testator or† any person claiming as executor or otherwise under a will, may present it to any Registrar or Sub-Registrar for registration,

Persons entitled to present wills and authorities to adopt.

† After his death.

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and the donor or* donee of any authority to adopt, or the adoptive son, may present it to any Registrar or Sub-Registrar for registration.

Registration of wills
and authorities to
adopt.

41. A will or an authority to adopt, presented for registration by the testator or donor, may be registered in the same manner as any other document.

A will or authority to adopt presented for registration by any other person entitled to present it, shall be registered if the registering officer is satisfied,

(1) that the will or authority was executed by the testator or donor, as the case may be,

(2) that the testator or donor is dead, and

(3) that the person presenting the will or authority is, under section 40, entitled to present the same.

PART IX.**OF THE DEPOSIT OF WILLS.**

42. Any testator may either personally or by duly authorized agent deposit with any Registrar the will in a sealed cover superscribed with the name of the depositor† and the nature of the document.

43. On receiving such [sealed] cover, the Registrar, if satisfied that‡ the depositor is the testator, or his [duly authorized] agent, shall transcribe in his Register Book No. 5 the superscription [on such sealed cover], and †note in the register and on the sealed cover‡ the year, month, day and hour of such presentation and receipt,‡ together with the name of the depositor, and the name of each of the persons testifying to the identity of such depositor, and the inscription so far as it is legible on the seal of the cover.‡

* After his death.

† Act III of 1877 provides for the superscription of the name of the testator, and that of his agent if any.

‡ Section 43 has been verbally altered to conform with the new section 42.

The Registrar shall then place and retain the sealed cover in his fire-proof box.

44. § If the depositor of any such sealed cover§ wishes to withdraw it, he may apply§ to the Registrar§ with whom it has been so deposited for the delivery of the cover ; and the Registrar, if satisfied as to the identity§ of the depositor with the applicant, shall deliver the cover accordingly. §

Withdrawal of sealed cover deposited under section 42.

45. If, on the death of the depositor* of a sealed cover under section 42, application be made to the Registrar with whom it has been deposited to open the same, the Registrar, if satisfied that the depositor* is dead, shall, in the applicant's presence, open the cover, and* copy, at the applicant's expense, the contents thereof in his Book No. 3.

Proceedings on death of depositor.

Re-deposit. When such copy has been made, the Registrar shall re-deposit the original will.

46. Nothing hereinbefore contained shall affect the provisions of the Indian Succession Act, section 259, or the power of any Court by order to compel the production of any will. But whenever any such order is made, the Registrar shall† copy the will in his Book No. 3 and make a note on such copy that the original has been removed into Court in pursuance of the order aforesaid.

Saving of Act X of 1865, section 259.

PART X.

OF THE EFFECTS OF REGISTRATION AND NON-REGISTRATION.

47. A registered document shall operate from the time from which it would have commenced to operate if no registration thereof had been required or made, and not from the time of its registration.

Time from which registered document operates.

48. All documents, not testamentary, duly registered under this Act, and relating to any property whether movable or immovable, shall take effect against any oral agreement or declaration relating to such property, unless where the agreement or declaration has been accompanied or followed by delivery of possession.

Registered documents relating to property when to take effect against oral agreements.

§ Similar alterations have been made in this section with the same purpose.

* Testator is substituted for depositor by Act III of 1877.

† Unless the will has already been copied under section 45 ; Provision has also been made for the Registrar to open the cover before sending to the Court.

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Effect of non-regis-
tration of documents
required to be regis-
tered.

49. No document required by section 17 to be registered,

shall affect any immovable property comprised therein,

or confer any power to adopt,

or be received as evidence of any transaction affecting such property or conferring such power,

unless it has been registered in accordance with the provisions of this Act.

50. Every document of the kinds mentioned in* clauses (1) and (2)

Registered docu-
ments relating to
land, of which regis-
tration is optional, to
take effect against un-
registered documents.

of section 18, shall, if duly registered, take effect as regards the property comprised therein, against every unregistered document relating to the same property, and not being a decree or order, whether such unregistered document be of the same nature as the registered document or not.*

Explanation.—In cases where Act No. XVI of 1864 or Act No. XX of 1866 was in force in the place and at the time in and at which such unregistered document was executed, “unregistered” means not registered according to such Act, and, where the document is executed after the first day of July 1871, not registered under this Act.

PART XI.

OF THE DUTIES AND POWERS OF REGISTERING OFFICERS.

(A)—As to the Register Books and Indexes.

51. The following Books shall be kept in the several offices hereinafter named (that is to say)—

Register Books to
be kept in the several
offices.

In all Registration Offices—

Book 1, “Register of documents† relating to immovable property ;”

*This section now includes documents of the kinds mentioned in clauses (a), (b), (c), and (d) of section 17, and clauses (a) and (b) of section 18, and excludes leases exempted under the proviso of section 17 and those mentioned in clauses (e) to (o) of the same section.

† Non-testamentary.

Book 2, "Record of reasons for refusal to register ;"

Book 3, "Register of wills and authorities to adopt ;" and

Book 4, "Miscellaneous Register."

In the Offices of Registrars—

Book 5, "Register of deposits of wills."

In Book 1 shall be entered or filed all documents or memoranda registered under the first four clauses of ‡ sections 17 and 18 and all other documents mentioned in section 18, clause (7), which relate to immovable property and are not wills.

In Book 4 shall be entered all documents registered under clauses (5) and (7) of section 18, § and not entered in Book 1. §

Nothing in the former part of this section shall be deemed to require more than one set of books where the Office of the Registrar has been amalgamated with the Office of a Sub-Registrar.

52. The day, hour, and place of presentation, and the signature of every person presenting a document for registration, shall be endorsed on every such document at the time of presenting it : a receipt for such document shall be given by the registering officer to the person presenting the same ; and, subject to the provisions contained in section 62, every document admitted to registration shall without unnecessary delay be copied in the Book appropriated therefor according to the order of its admission.

Endorsements on document presented.
Receipt for document.
Documents admitted to registration to be copied.

And all such books shall be authenticated at such intervals and in such manner as is from time to time prescribed by the Inspector-General.

53. All entries in each Book shall be numbered in a consecutive series, which shall commence and terminate with the year, a fresh series being commenced at the beginning of each year.

Entries to be numbered consecutively.

‡ Act III of 1877 under sections 17, 18, and 19.

§ Clauses (d) and (f).

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54. In every office in which any of the books hereinbefore mentioned are kept, there shall be prepared current Indexes of the contents of such books ; and every entry in such indexes shall be made, so far as practicable, immediately after the registering officer has copied, or filed a memorandum of, the document to which it relates.

55. *Two such indexes shall be made in all registration offices, and shall be named, respectively, Index No. I and Index No. II.*

Index No. I shall contain the names and additions of all persons executing and of all persons claiming under every document copied into or memorandum filed in Book No. 1 [or Book No. 3.]

Index No. II shall contain such particulars mentioned in section 21 relating to every such document and memorandum as the Inspector-General from time to time directs in that behalf.

A third Index to be called index No. III shall contain the names and additions of all persons executing and of all persons claiming under every document copied into Book No. 4.†.

Index Nos. I, II, and III shall contain such other particulars, and shall be prepared in such form, as the Inspector-General from time to time directs.

56. Every Sub-Registrar shall send to the Registrar to whom he is subordinate, at such intervals as the Inspector-General from time to time directs, a copy of all entries made by such Sub-Registrar, during the last of such intervals, in Indexes Nos. I and II.‡

Such copy to be filed by Registrar.

Every Registrar receiving such copy shall file it in his office.

57. Subject to the previous payment of the fees payable in that behalf the Books Nos. 1 and 2 and the Indexes relating to Book No. 1 shall be at all times open to inspection by any person applying to inspect the same ; and subject to the provisions of section 62,

*Four Indexes are now kept, Book 3 having an Index of its own, Index III, and Book IV, Index IV.

† Separate provisions are now made for Books 3 and 4 and the Indexes relating thereto.

‡ Such copies shall be signed and sealed by the registering officer, and shall be admissible for the purpose of proving the contents of the original documents.

copies of entries in such books shall be given to all persons applying for such copies.

Subject to the same provisions, copies of entries in Books Nos. 3 and 4 and in the Indexes relating thereto shall be given to any person executing or claiming under the documents to which such entries respectively refer ; but the requisite search for such entries shall be made only by the registering officer.

(B)—As to the Procedure on admitting to Registration.

58. On every document admitted to registration, other than a copy of a decree or order,† or a copy sent to a registering officer under section 89, Act III of 1877, there shall be endorsed from time to time the following particulars (that is to say),—

Particulars to be endorsed on documents admitted to registration.

(1) the signature and addition of every person admitting the execution of the document ; and, if such execution has been admitted by the representative, assign or agent of any person, the signature and addition of such representative, assign or agent ;

(2) the signature and addition of every person examined in reference to such document under any of the provisions of this Act ; and

(3) any payment of money or delivery of goods made in the presence of the registering officer in reference to the execution of the document, and any admission of receipt of consideration, in whole or in part, made in his presence in reference to such execution.

If any person admitting the execution of a document refuses to endorse the same, the registering officer shall nevertheless register it, but shall at the same time endorse a note of such refusal.

59. The registering officer shall affix the date and his signature to all endorsements made under the last preceding section, relating to the same document and made in his presence on the same day.

Such endorsements to be dated and signed by registering officer.

60. After such of the provisions of section 34, 35, 58, and 59 as apply to any document presented for registration have been complied with, the registering officer shall endorse thereon a certificate containing the word "registered," together with the number and page of the Book in which the document has been copied.

Certificate showing that document has been registered, and number and page of Book in which it has been copied.

†Separate provisions are now made for Books 3 and 4 and the Indexes relating thereto.

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Such certificate shall be signed, sealed and dated by the registering officer, and shall then be admissible for the purpose of proving that the document has been duly registered in manner provided by this Act, and that the facts mentioned in the endorsements referred to in section 59 have occurred as therein mentioned.

61. The endorsements and certificate referred to and mentioned in sections 59 and 60 shall thereupon be copied into certificate to be copied. the margin of the register-book, and the copy of the map or plan (if any) mentioned in section 21 shall be filed in Book No. 1.

The registration of the document shall thereupon be deemed complete, and the document shall then be returned to the person who presented the same for registration, or to such other person (if any) as he has nominated in writing in that behalf on the receipt mentioned in section 52.

62. When a document is presented for registration under section 19, the translation shall be transcribed in the register of documents of the nature of the original, and, together with the copy referred to in section 19, shall be filed in the registration office.

The endorsements and certificate respectively mentioned in sections 59 and 60 shall be made on the original, and for the purpose of making the copies and memoranda required by sections 57, 64, 65, and 66 the translation shall be treated as if it were the original.

63. Every registering officer may at his discretion administer an oath to any person examined by him under the provisions of this Act.

He may also at his discretion record a note of the substance of the statement made by each such person, and such statement shall be read over, or (if made in a language with which such person is not acquainted) interpreted to him in a language with which he is acquainted, and if he admits the correctness or such note, it shall be signed by the registering officer.

Every such note so signed shall be admissible for the purpose of proving that the statements therein recorded were made by the persons and under the circumstances therein stated.

(C)—*Special Duties of Sub-Registrar.*

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64. Every Sub-Registrar on registering a non-testamentary document relating to immovable property not wholly situate in his own sub-district, shall make a memorandum thereof and of the endorsement and certificate (if any) thereon, and send the same to every other Sub-Registrar subordinate to the same Registrar as himself in whose sub-district any part of such property is situate, and such Sub-Registrar shall file the memorandum in his Book No. 1.

65. Every Sub-Registrar on registering a non-testamentary document relating to immovable property situate in more districts than one, shall also forward a copy thereof and of the endorsement and certificate (if any) thereon together with a copy of the map or plan (if any) mentioned in section 21 to the Registrar of every district in which any part of such property is other than the district in which his own sub-district is situate.

The Registrar on receiving the same shall file in his Book No. 1 the copy of the document and the copy of the map or plan (if any), and shall forward a memorandum of the document to each of the Sub-Registrars subordinate to him within whose sub-district any part of such property is situate ; and every Sub-Registrar receiving such memorandum shall file it in his Book No. 1.

(D)—*Special Duties of Registrar.*

66. On registering any document not testamentary relating to immovable property, the Registrar shall forward a memorandum of such document to each Sub-Registrar subordinate to himself in whose sub-district any part of the property is situate.

He shall also forward a copy of such document, together with a copy of the map or plan (if any) mentioned in section 21, to every other Registrar in whose district any part of such property is situate.

Such Registrar on receiving any such copy shall file it in his Book No. 1, and shall also send a memorandum of the copy to each of the Sub-Registrar subordinate to him within whose sub-district any part of the property is situate.

Every Sub-Registrar receiving any memorandum under this section shall file it in his Book No. 1.

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67. On any document being registered under section 30, clause (b), a copy of such document and of the endorsements and certificate thereon shall be forwarded to every Registrar within whose district any part of the property to which the instrument relates is situate, and the Registrar receiving such copy shall follow the procedure prescribed for him in the first clause of section 66.

(E)—*Of the Controlling Powers of Registrars and Inspectors-General.*

68. Every Sub-Registrar shall perform the duties of his office under the superintendence and control of the Registrar in whose district the office of such Sub-Registrar is situate.

Every Registrar shall have authority to issue (whether on complaint or otherwise) any order consistent with this Act which he considers necessary in respect of any act or omission of any Sub-Registrar subordinate to him, or in respect of the rectification of any error regarding the Book or the office in which any document shall have been registered.

69. The Inspector-General shall exercise a general superintendence over all the registration offices in the territories under the Local Government, and shall have power from time to time to frame rules consistent with this Act—

providing for the safe custody of books, papers and documents, and also for the destruction of such books, papers and documents as need no longer be kept ;

declaring what languages shall be deemed to be commonly used in each district ;

declaring what territorial divisions shall be recognized under section 21 ;

regulating the amount of fines imposed under sections 24 and 34 respectively ;

regulating the exercise of the discretion reposed in the registering officer by section 63 ;

regulating the form in which registering officers are to make memoranda of documents ;

regulating the authentication by Registrars and Sub-Registrars of the books kept in their respective offices under section 51 ;

declaring the particulars to be contained in Indexes Nos. I, II, III,* and IV, respectively ;

declaring the holidays that shall be observed in the registration offices ;

and, generally, regulating the proceedings of the Registrars and Sub-Registrars.

The rules so framed shall be submitted to the Local Government for approval, and, after they have been approved, they shall be published in the Official Gazette and shall then have the same force as if they were inserted in this Act.

70. The Inspector-General may also, in the exercise of his discretion, remit wholly or in part the difference between any fine levied under section 24 or section 34 and the amount of the proper registration fee.

PART XII.

OF REFUSAL TO REGISTER.

71. Every registering officer refusing to register a document, except (1) where the property to which the document relates is not situate within his district or subdistrict, or (2)* where the registering officer being a Registrar declines to accept the document on the ground that it ought to be registered in the office of a Sub-Registrar,

shall make an order of refusal and record his reasons for such order in his Book No. 2, and endorse the words "registration refused" on the document ; and on application made by any person executing or claiming under the document, shall,* without unnecessary delay, give him a copy of the reasons so recorded.

No registering officer shall accept for registration a document so endorsed unless and until, under the provisions hereinafter contained, the document is directed to be registered.

* This has now been rendered unnecessary by the provision for registration by the Registrar on payment of extra fees ; also without payment.

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72.† An appeal shall lie against an order of a Sub-Registrar refusing to admit a document to registration (whether the registration of such document is compulsory or optional) to the Registrar to whom such Sub-Registrar is subordinate if presented to such Registrar within thirty days from the date of the order, and the Registrar may reverse or alter such order :

* Any Registrar refusing to direct the registration of any document shall make an order of refusal and record the reasons for such order in his Book No. 2, and on application made by any person executing or claiming under the document, shall, without unnecessary delay, give him a copy of the reasons so recorded.

Procedure where Registrar refuses to register or direct registration. §73. If a Registrar makes under section 71 or section 72 an order of refusal to register or to direct the registration of any document,

or if he has made a like order under section 82 or section 83 of Act No. XX of 1866,

or if the Sub-Registrar has refused to register the document on the ground that the person, or one of the persons, by whom the document purports to have been executed, has denied the execution,

or if the Registrar has himself as Sub-Registrar made an order of refusal under section 71,

any person claiming under such document, or his representative, assign or agent authorized as aforesaid, may, within thirty days after the making of the order of refusal, apply by petition to the District Court, in order to establish his right to have the document registered.

†74. The petition shall be in the form contained in the Second Schedule hereto annexed or as near thereto as circumstances permit, and shall be accompanied by copies of the reasons recorded under sections 71 and 72 ; the statements in the petition shall be verified by the petitioner in manner required by law for the verification of complaints ; and the petition may be amended by permission of the Court.

† Except where the refusal is made on the ground of denial of execution.

* This is now modified and enacted as section 76.

The procedure of the Registrar has been entirely remodelled by Act III of 1877.

§ This is now re-enacted in a modified form as section 77, Act III of 1877.

‡ Included in a modified form in section 73, Act III of 1877.

75. The Court shall fix a day for the hearing of the petition not less than two days after the service next hereinafter mentioned, and shall direct a copy of the petition, with a notice at the foot thereof of the day so fixed, to be served on the registering officer and on such other persons (if any) as the Court thinks fit ; and the provisions of the Code of Civil Procedure as to the service and endorsement of summonses shall apply, *mutatis mutandis*, to copies of petitions under this section.

76. *The Court may summon and enforce the attendance of witnesses and compel them to give evidence, and on the day so fixed as aforesaid, or on any day to which the hearing of the petition may be adjourned, shall enquire—

(a) whether the document has been executed, and

(b) whether the requirements of the law for the time being in force have been complied with on the part of the petitioner so as to entitle the document to registration.

If it finds that the document has been executed and that the said requirements have been complied with, the Court shall order the document to be registered,

and if the document be duly presented for registration within thirty days after the making of such order, the registering officer shall obey the same, and thereupon shall, so far as may be practicable, follow the procedure prescribed in sections 58, 59 and 60.

Such registration shall take effect as if the document had been registered when it was first duly presented for registration.

Provided that when the officer presiding over the District Court has himself as registering officer made any order complained of under this section, the petition shall, within sixty days after the making of such order, be presented to the High Court, and the provisions contained in the former part of this section shall, *mutatis mutandis*, apply to such petition and the order (if any) thereon.

The District Court or the High Court, as the case may be, may

* All these provisions as to the procedure of the Court are excluded from Act III of 1877.

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direct by whom the whole or any part of the costs of any proceedings before it under this Part shall be paid, and such costs shall be recoverable as if they had been awarded in a suit under the Code of Civil Procedure.

No appeal lies from any order made under this section.

PART XIII.

OF THE FEES FOR REGISTRATION, SEARCHES AND COPIES.

†77. Subject to the approval of the Governor-General in Council, the Local Government shall prepare a table of fees to be fixed by the Local Government. fees payable—

for the registration of document :

for searching the registers :

for making or granting copies of reasons, entries or documents, before, on or after registration :

And of extra or additional fees payable—

for every registration under section 30 :

for the issue of commissions :

for filing translations :

for attending at private residences :

and for such other matters as appear to the Local Government necessary to effect the purposes of this Act.

Alteration of fees. The Local Government may from time to time, subject to the like approval, alter such table.

*A table of the fees so payable shall be published in the Official Gazette, and a copy thereof in English and the Vernacular language of the district shall be exposed to public view in every registration office.

†Section 78, Act III of 1877.

* Section 79, Act III of 1877.

Fees payable
presentation.

†78. All fees for the registration of documents under this Act shall be payable on the presentation of such documents.

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PART XIV.

PENALTIES.

‡79. Every registering officer appointed under this Act and every person employed in his office for the purposes of this Act, who, being charged with the endorsing, copying, translating or registering of any document presented or deposited under its provisions, endorses, copies, translates or registers such document in a manner which he knows or believes to be incorrect, intending thereby to cause, or knowing it to be likely that he may thereby cause injury, as defined in the Indian Penal Code, to any person, shall be punished with imprisonment for a term which may extend to seven years, or with fine, or with both.

§80. Whoever commits any of the following offences shall be punishable with imprisonment for a term which may extend to seven years, or with fine, or with both :

(a) intentionally makes any false statement, whether on oath or not, and whether it has been recorded or not, before any officer acting in execution of this Act, in any proceeding or enquiry under this Act,

Penalty for certain
other offences.

(b) intentionally delivers to a registering officer in any proceeding under section 19 or section 21 a false copy or translation of a document, or a false copy of a map or plan,

Making false statements before registering officer.

(c) falsely personates another, and in such assumed character presents any document, or makes any admission or statement, or causes any summons or commis-

False personation.

†Section 80, Act III of 1877.

‡Section 81, Act III of 1877. •

§Section 82, Act III of 1877.

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sion to be issued, or does any other act in any proceeding or enquiry under this Act,

Abetment of offences under this Act. (d) abets within the meaning of the Indian Penal Code anything made punishable by this Act.

*81. A prosecution for any offence under this Act coming to the knowledge of a registering officer in his official capacity may be instituted by or with the permission of the Inspector-General, the Branch Inspector-General of Sindh, the Registrar or the Sub-Registrar, in whose territories, district or sub-district, as the case may be, the offence has been committed.

Offences punishable under this Act shall be triable by any Court or officer exercising powers not less than those of a Subordinate Magistrate of the† First Class :

Provided that in imposing penalties under this Act, no such Court or officer shall exceed the limits of jurisdiction prescribed by the law for the time being in force as to such Court or officer.

All fines imposed under this Act may be recovered, if for offences committed outside the limits of the Presidency-Towns, in the manner prescribed by the Code of Criminal Procedure, and if for offences committed within those limits, in the manner prescribed by any Act regulating the Police of such Towns for the time being in force.‡

Registering officers to be deemed public servants. § 82. Every registering officer appointed under this Act shall be deemed a public servant within the meaning of the Indian Penal Code.

Every person shall be legally bound to furnish information to such registering officer when required by him to do so. And in section 228 of the same Code, the words "judicial proceeding" shall include any proceeding under this Act.

N.B.—This section which was extended by Act III of 1877 has been restored to its original form by Act XII of 1891.

* Section 83, Act III of 1877.

† Act III of 1877 has modified this into "Second Class."

‡ Now generally in the manner provided by the law for the time being in force for the recovery of fines imposed by Criminal Courts.

§ Section 84, Act III of 1877.

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MISCELLANEOUS.

*83. Documents (other than wills) remaining unclaimed in any registration office, for a period exceeding two years, may be destroyed.†

Registering officer not liable for thing *bond fide* done or refused in his official capacity.

†84. No registering officer shall be liable to any suit, claim or demand by reason of any thing in good faith done or refused in his official capacity.

Nothing so done invalidated by defect in appointment or procedure.

‡85. Nothing done in good faith pursuant to this Act, or any Act hereby repealed, by any registering officer, shall be deemed invalid merely by reason of any defect in his appointment or procedure.

§86. Notwithstanding anything herein contained it shall not be necessary for any officer of Government, or for the Administrator-General of Bengal, Madras or Bombay, or for any Official Trustee,|| or for the Sheriff, Receiver or Registrar of a High Court, to appear in person or by agent at any registration office in any proceeding connected with the registration of any instrument executed by him in his official capacity, or to sign as provided in section 58.

But when any instrument is so executed, the registering officer to whom such instrument is presented for registration may, if he think fit, refer to any Secretary to Government or to such officer of Government, Administrator-General, Official Trustee,¶ Sheriff, Receiver or Registrar, as the case may be, for information respecting the same, and on being satisfied of the execution thereof, shall register the instrument.**

*Section 85, Act III of 1877.

§Section 88, Act III of 1877.

†Section 86, Act III of 1877.

|| Or Official Assignee.

‡Section 87, Act III of 1877.

¶ Official Assignee.

** Section 89, Act III of 1877 has been added to provide for documents under the Land Improvement Loans Act, 1883, Agriculturist's Loans Act, 1884, and for sale-certificates under the Civil Procedure Code, XIV of 1882, and at revenue sales.

PART I.
Appendix.*Exemptions from Act.*

††87. Nothing contained in this Act or any Act hereby repealed shall be deemed to require, or to have at any time required, the registration of any of the following documents or maps :—

Exemption of certain documents executed by or in favour of Government.

(a) Documents issued, received or attested by any officer engaged in making a settlement or revision of settlement of land revenue, and which form part of the records of such settlement.

(b) Documents and maps issued, received or authenticated by any officer engaged on behalf of Government in making or revising the survey of any land, and which form part of the record of such survey.

(c) Documents which, under any law for the time being in force,* or filed periodically in any revenue office by patwaris or other officers charged with the preparation of village records.

(d) Sanads, inam title-deeds, and other documents purporting to be or to evidence grants or assignments by Government of land or of any interest in land.†

But all such documents and maps shall, for the purposes of sections 48 and 49, be deemed to have been and to be registered in accordance with the provisions of this Act.

88†. Subject to such rules and the previous payment of such fees as the Local Government from time to time prescribes in this behalf, all documents and maps mentioned in section† 87, clauses (a), (b) and (c),† and all registers of the documents mentioned in clause (d) shall be open to the inspection of any person applying to inspect the same, and, subject as aforesaid, copies of such documents shall be given to all persons applying for such copies.

89§. From the first of July to the first of October 1871, in the territories respectively administered by the Chief Commissioners of Oudh and British-Burma, a power-of-attorney not duly executed according to the provisions of section 33 shall, notwithstanding—

Recognition in Oudh and Burmah for three months of powers-of-attorney not duly executed.

††Section 90, Act III of 1877.

*"Are" for "or," which was a misprint corrected by Act XII of 1891.

†Act VII of 1886 inserted another clause, *vide* Act III of 1877, *infra*.

‡Section 91, Act III of 1877.

§Omitted in Act III of 1877.

ing anything therein contained, be deemed to have been duly executed under the provisions of the same section, if the registering officer is satisfied that it has been executed in good faith, and if a power-of-attorney attested under the provisions of this Act cannot be obtained within the time during which the document sought to be registered can, under such provisions, be accepted for registration.

90. || All rules relating to registration heretofore enforced in British Burmah shall be deemed to have had the force of law, and no suit or other proceeding shall be maintained against any officer or other person in respect of anything done under any of the said rules.


FIRST SCHEDULE.

(See Section 2.)

Number and year.	Title.	Extent of repeal.
XXII of 1864	An Act to make provision for the administration of Military Cantonments.	Sections 10 and 45.
XX of 1866	An Act to provide for the registration of assurances.	The whole.
XXVII of 1868	An Act to exempt certain instruments from the Indian Registration Act, 1866.	The whole.
VII of 1870	The Court Fees Act	... In Schedule I the number and words following : "3. Petition under the Indian Registration Act, section 53.
	All Rules relating to the registration of documents and having the force of law in Oudh.	The whole.
	All Rules relating to the registration of documents and having the force of law in any part of British Burma.	The whole.

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SECOND SCHEDULE.

Forms of petition under section 73.


Stamp
eight annas.

To the Judge of the District Court [or To the Deputy Commissioner] of.....

The.....day of.....18.....

The petition of A. B. of.....
Sheweth—

1. That by an instrument dated the.....day of.....
and made between C. D. of the one part and your petitioner of the
other part, certain lands were conveyed to your petitioner absolutely.

2. That such instrument was executed by the said C. D. on
the.....day of.....18.....

3. That the property to which such instrument relates is situate
in the sub-district of the Sub-Registrar of.....and in the
district of.....

4. That on the.....day of.....your petitioner
presented the said instrument for registration under "The Indian
Registration Act, 1871," in the office of the said Sub-Registrar.

5. That the said Sub-Registrar thereupon made an order of
refusal, dated the.....day of.....18.....to register the
said instrument and gave your petitioner a copy, which is filed here-
with, of the reasons for such order.

6. That your petitioner on the.....day of.....
appealed to the Registrar of.....against such order.

7. That the said Registrar thereupon made an order of refusal,
dated the.....day of.....to direct the registration of
the said instrument and gave your petitioner a copy, which is filed
herewith, of the reasons for such order.

8. That the reasons referred to in paragraphs 5 and 7 of his petition are, as your petitioner submits, insufficient.

Your petitioner therefore prays that your Honour will order the said Sub-Registrar to register the said instrument.

A. B.

Another Form.

Stamp
eight annas.

To the Judge of the District Court [or To the Deputy Commissioner] of.....

The.....day of.....18.....

The petition of A. B. of.....
Sheweth—

1. That by an instrument dated the.....day of and made between C. D. of the one part and your petitioner of the other part, certain lands were conveyed to your petitioner by way of mortgage to secure the sum of one thousand rupees.

2. That such instrument was executed by the said C. D. on theday of.....18.....

3. That the property to which such instrument relates is situate in the sub-district of the Sub-Registrar of.....and in the district of.....

4. That on the.....day of.....your petitioner presented the said instrument for registration under "The Indian Registration Act, 1871," in the office of the said Sub-Registrar, and the said C. D. appeared personally before the said Sub-Registrar and falsely denied the execution of the said instrument.

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5. That the said Sub-Registrar thereupon made an order of refusal dated the.....day of.....18.....to register the said instrument and gave your petitioner a copy, which is filed herewith, of the reasons for such order.

6. That your petitioner has complied with the requirements of the said Act so far as it has been possible for him to do so.

Your petitioner therefore prays that your Honour will order the said Sub-Registrar to register the said instrument.

A. B.

Form of Verification.

I, A. B., the petitioner named in the above petition, do declare that what is stated therein is true to the best of my information and belief.

(Signed) A. B.

PART II.

THE INDIAN REGISTRATION ACT, 1877.

ARRANGEMENT OF SECTIONS.

PREAMBLE.

PART I.

PRELIMINARY.

SECTION.

1. Short title.
Local extent.
Commencement.
2. Repeal of enactments.
3. Interpretation-clause.

PART II.

OF THE REGISTRATION ESTABLISHMENT.

4. Inspector-General of Registration.
Branch Inspector-General of Sindh.
5. Districts and sub-districts.
6. Registrars and Sub-Registrars.
7. Offices of Registrar and Sub-Registrar.
8. Inspectors of registration-offices.
9. Military cantonments may be declared sub-districts or districts.
10. Absence of Registrar from his district or vacancy in his office.
11. Absence of Registrar on duty in his district.
12. Absence of Sub-Registrar or vacancy in his office.
13. Appointments under section 10, 11 or 12 to be reported to Government.
- Suspension, removal and dismissal of officers.
14. Remuneration and establishments of registering officers.
15. Seals of registering officers.
16. Register-books. • • •
Forms.
Fire-proof boxes.

Part II.
Registration
Act, 1877.

PART III.

OF REGISTRABLE DOCUMENTS.

SECTION.

17. Documents of which registration is compulsory.
Exception of
composition-deeds ;
and of transfers of shares and debentures in Land Companies ;
documents merely creating right to obtain other documents.
Authorities to adopt.
18. Documents of which registration is optional.
19. Documents in language not understood by registering officer.
20. Documents containing interlineations, blanks, erasures or alterations.
21. Description of parcels.
Documents containing maps or plans.
22. Failure to comply with rules as to description of houses and land.

PART IV.

OF THE TIME OF PRESENTATION.

23. Time for presenting documents.
24. Provision where delay in presentation is unavoidable.
25. Documents executed out of British India.
26. Provision where office is closed on last day of period for presentation.
27. Wills may be presented or deposited at any time.

PART V.

OF THE PLACE OF REGISTRATION.

28. Place for registering documents relating to land.
29. Place for registering other documents.
30. Registration by Registrar.
Registration by Registrar at Presidency-town and Lahore.
31. Registration or acceptance for deposit at private residence.

PART VI.

Part II.
Registration
Act, 1877.

OF PRESENTING DOCUMENTS FOR REGISTRATION.

SECTION.

- 32. Persons to present documents for registration.
- 33. Powers-of-attorney recognizable for purposes of section 32.
Proviso as to persons infirm, or in jail, or exempt from appearing in Court.
- 34. Enquiry before registration by registering officer.
- 35. Procedure on admission of execution.
Procedure on denial of execution, &c.

PART VII.

OF ENFORCING THE APPEARANCE OF EXECUTANTS AND WITNESSES.

- 36. Procedure where appearance of executant or witness is desired.
- 37. Officer or Court to issue and cause service of summons.
- 38. Persons exempt from appearance at registration-office.
- 39. Law as to summonses, commissions and witnesses.

PART VIII.

OF PRESENTING WILLS AND AUTHORITIES TO ADOPT.

- 40. Persons entitled to present wills and authorities to adopt.
- 41. Registration of wills and authorities to adopt.

PART IX.

OF THE DEPOSIT OF WILLS.

- 42. Deposit of wills.
- 43. Procedure on deposit of wills.
- 44. Withdrawal of sealed cover deposited under section 42.
- 45. Proceedings on death of depositor.
Re-deposit.
- 46. Saving of Act X of 1865, section 259 (The Indian Succession Act).

Part II.
Registration
Act, 1877.

PART X.

OF THE EFFECTS OF REGISTRATION AND NON-REGISTRATION.

SECTION.

47. Time from which registered document operates.
48. Registered documents relating to property when to take effect against oral agreements.
49. Effect of non-registration of documents required to be registered.
50. Registered documents relating to land, of which registration is optional, to take effect against unregistered documents.

PART XI.

OF THE DUTIES AND POWERS OF REGISTERING OFFICERS.

(A)—*As to the Register-Books and Indexes.*

51. Register-books to be kept in the several offices.
52. Endorsements on document presented.
Receipt for document.
Documents admitted to registration to be copied.
53. Entries to be numbered consecutively.
54. Current Indexes and entries therein.
55. Indexes to be made by registering officers.
Extra particulars in Indexes.
56. Copy of entries in Indexes Nos. I, II and III to be sent by Sub-Registrar to Registrar.
Such copy to be filed by Registrar.
57. Registering officers to allow inspection of certain Books and Indexes, and to give certified copies of entries.

(B)—*As to the Procedure on admitting to Registration.*

58. Particulars to be endorsed on documents admitted to registration.
59. Such endorsements to be dated and signed by registering officer.
60. Certificates showing that document has been registered, and number and page of book in which it has been copied.
61. Endorsements and certificates to be copied.
Document to be returned.
62. Procedure on presenting document in language unknown to registering officer.

SECTION.

63. Power to administer oath.
Record of substance of statements.

(C)—Special Duties of Sub-Registrar.

64. Procedure on registration of document relating to land situate in several sub-districts.
65. Procedure where document relates to land situate in several districts.

(D)—Special Duties of Registrar.

66. Procedure on registering documents relating to land.
67. Procedure on registration under section 30, clause (b).

(E)—Of the Controlling Powers of Registrars and Inspectors-General.

68. Registrar to superintend and control Sub-Registrars.
69. Inspector-General to superintend registration-offices.
His power to make rules.
70. His power to remit fines.

PART XII.

OF REFUSAL TO REGISTER.

71. Reasons for refusal to register to be recorded.
72. Power to reverse or alter orders or Sub-Registrar refusing registration on ground other than denial of execution.
73. Application where Sub-Registrar refuses to register on ground of denial of execution.
74. Procedure of Registrar on such application.
75. Order to register and procedure thereon.
76. Refusal by Registrar.
77. Suit in case of refusal.

Part II.
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Act, 1877.

PART XIII.

OF THE FEES FOR REGISTRATION, SEARCHES AND COPIES.

SECTION.

- 78. Fees to be fixed by Local Government.
Alteration of fees.
- 79. Publication of fees.
- 80. Fees payable on presentation.

PART XIV.

OF PENALTIES.

- 81. Penalty for incorrectly endorsing, copying, translating or registering documents with intent to injure.
- 82. Penalty for certain other offences.
Making false statements before registering officer.
Delivering false copy or translation.
False personation.
Abetment of offences under this Act.
- 83. Registering officer may commence prosecutions.
- 84. Registering officers to be deemed public servants.

PART XV.

MISCELLANEOUS.

- 85. Destruction of unclaimed documents.
- 86. Registering officer not liable for thing *bonâ fide* done or refused in his official capacity.
- 87. Nothing so done invalidated by defect in appointment or procedure.
- 88. Registration of documents executed by Government officers or certain public functionaries.
- 89. Orders under Land Improvement Loans Act, 1883.

Exemptions from Act.

- 90. Exemption of certain documents executed by or in favour of Government.
- 91. Inspection and copies of such documents.
- 92. Burmese registration-rules confirmed.

THE INDIAN REGISTRATION ACT,

ACT No. XVI of 1908.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

*(Reversed the assent of the Governor General on the
18th December 1908.)*

An Act to consolidate the enactments relating to the Registration of Documents.

WHEREAS it is expedient to consolidate the enactments relating to the registration of documents; It is hereby enacted as follows :—

PART I.
Preliminary.

PART I.

PRELIMINARY.

Short title, extent and commencement.

1. (1) This Act may be called the Indian Registration Act, 1908.

(2) It extends to the whole of British India,* except such districts or tracts of country as the Local Government may, with the previous sanction of the Governor General in Council, exclude from its operation.

* Act III of 1887 was declared in force in the Sonthal Pergunnahs by Regulation III of 1872, s. 3, as amended by Regulation III of 1886 [Bengal Code, Vol. I, Ed. 1889, p. 597, and in British Beluchistan by Regulation I of 1890, s. 3 [Beluchistan Code, Ed. 1890, p. 69].

It was declared, under the Scheduled Districts Act, 1874, (XIV of 1874) to be in force in the following Scheduled Districts, namely, the districts of Hazaribagh, Lohardugga and Manbhoom, and Pergunnah Dhalbhoom and the Kolhan in the District of Singhbhoom [see *Gazette of India*, 1881, Part I, p. 504].

It was extended, under the same Act, to that part of the Khasi and Jaintia Hills District which is comprised within the limits of the Civil Station and Cantonment of Shillong [see *Gazette of India*, 1878, Part I, p. 662], and to the Mahal of Angul [see *Gazette of India*, 1887, Part I, p. 97].

It was declared, under the same Act, to be not actually in force in the other parts of the Khasi and Jaintia Hills District, in the Garo Hills or in the Naga Hills District [see *Gazette of India*, 1878, Part I, p. 662].

It had ceased to be in force in the Dibrugarh Frontier Tract and the Mikir Hills Tract [see *Assam Gazette* 1884, Part II, pp. 212 and 705, respectively].

PART I.
Preliminary.

8. 2.

(3) It shall come into force on the first day of January 1909.

Definition.

2 In this Act, unless there is anything repugnant in the subject or context,—

- (1) "addition" means the place of residence, and the profession, trade, rank and title (if any) of a person described, and, in the case of a Native of India, his caste (if any) and his father's name, or where he is usually described as the son of his mother, then his mother's name :
- (2) "book" includes a portion of a book and also any number of sheets connected together with a view of forming a book or portion of a book :
- (3) "district" and "sub-district" respectively mean a district and sub-district formed under this Act :
- (4) "District Court" includes the High Court in its ordinary original civil jurisdiction.
- (5) "endorsement" and "endorsed" include and apply to an entry in writing by a registering officer on a rider or covering slip to any document tendered for registration under this Act :
- (6) "immoveable property" includes land, buildings, hereditary allowances, rights to ways, lights, ferries, fisheries or any other benefit to arise out of land, and things attached to the earth, or permanently fastened to anything which is attached to the earth, but not standing timber, growing crops nor grass :

In Upper Burma there is a special law as to registration—[see Regulation I of 1887, in Burma Code, Ed. 1889, p. 413].

This does not apply to : The Jaypur Tracts— St. George Gazette, 1876, p. 773 : The scheduled districts of the Madras Presidency, *ibid.*, 1881, Pt. I, p. 516 : The Arakan Hill Tracts District, Burma Gaz., 1886, Pt. I, p. 247, and the Karen Hills Sub-Division, Toungoo, and the Malvan Sub-Division and Tenasserim Township, Mergul, *ibid.*, 1893, Pt. L, p. 350.

- (7) "lease" includes a counterpart, kabuliyat, an undertaking to cultivate or occupy, and an agreement to lease :
- (8) "minor" means a person who, according to the personal law to which he is subject, has not attained majority :
- (9) "moveable property" includes standing timber, growing crops and grass, fruit upon and juice in trees, and property of every other description, except immoveable property : and
- (10) "representative" includes the guardian of a minor and the committee or other legal curator of a lunatic or idiot.

This section has been omitted in the Consolidating Act and section 93 added in its place.

The interpretation clause which follows is therefore section 2 of the new Act. The numbering has been re-adjusted by splitting up section 4 into two sections 3 and 4 of the new Act. The only other alteration in the numbering of the sections is that section 23 has been split up into two sections 23 and 24 and so the very important penalty section 24 becomes section 25. This is again readjusted by the repeal of section 26.

PART II.

OF THE REGISTRATION-ESTABLISHMENT.

8. (1) The Local Government shall appoint an officer to be the Inspector General of Registration for the territories subject to such Government :

Inspector General of
Registration.

Provided that the Local Government may, instead of making such appointment, direct that all or any of the powers and duties hereinafter conferred and imposed upon the Inspector General shall be exercised and performed by such officer or officers and within such local limits, as the Local Government appoints, in this behalf.

- (2) Any Inspector General may hold simultaneously any other office under Government.

Part II.
Section 10.

The Stamp Act, I of 1879, gives a new definition of a lease, but still excludes a counterpart.

By Bengal Government Notifications of 17th June 1879, 20th November 1879, and 23rd of October 1880, Rural Sub-Registrars and Special Sub-Registrars were given power to denote under s. 15 of Act I of 1879.

The expression an undertaking to cultivate or occupy, used in s. 3, Act VIII of 1871, in defining the word "lease" means an accepted undertaking giving to the lessee a right or interest in the thing let.—*Apu Budgavada v. Narhari Annajee*, I. L. R. 3 Bom. 21.

The words are reproduced in this Act without alteration. The above ruling is therefore still applicable.

For the distinction between pattas and kabuliyaats, see instructions and orders.

A valid lease may be created only by a registered *kabuliat* which is accepted by the lesser and registered according to law.—*Raimoni Dassi v. Mathura Mohun Dey*, 16 C. W. N. 616 : (s. c.) 15 C. L. J. 665.

It has been held however by Blair, J., (Banerji, J., dubitante) that a *kabuliat* though registered cannot be considered as a lease of immoveable property by a registered instrument within the meaning of section 107 of the Transfer of Property Act.—*Nand Lal v. Hanuman Das*, 26 All. 368. See also *Kashigir v. Jogen-dranath Ghosh*, 27 All. 136.

However this may be it does not affect the practice in Registration offices in Bengal.

As to documents not amounting to an absolute agreement to lease, vide *Dwarkanath Saha v. Ledu Sikdar*, 33 Cal. 502, (post, s. 17).

The words undertaking to cultivate or occupy means an accepted undertaking giving to the lessee a right or interest in the thing let.—*Apu Budgavada v. Narhari Annajee*, 3 Bom. 21.

An agreement to renew a *kanam* is not an agreement to lease or a lease within the meaning of this section and requires registration. See *Achutan v. Karman* 13 M. L. J. 217.

An *amalanama* to hold a land by payment of rent is not a lease and does not require registration.—*Dwarkanath Saha v. Ledu Sikdar*, 33 Cal. 502. Lease includes a *kabuliat* under the Stamp Act. 8 O. C. 198. Doui Darkhast, a mere proposal to hold land at a certain rent is not a lease.—*Syed Susder v. Amgad Ali*, 7 Cal. 703 (F. B.).

Tangible immoveable property means lands, buildings, &c., which, immediately or through the medium of tenants may be the subject of possession deliverable by the seller to the buyer.—*Bir Narain v. Darpa Narain*, 20 Cal. 74.

The right to collect market dues is a benefit to arise out of land within the purview of s. 3. A lease of such a right for more than one year must be registered.—*Sikandar v. Bahadur*, 27 All. 462.

An agreement to pay Rs. 150 per annum of which Rs. 50 was for maintenance of plaintiff's mother and the residue towards defraying the expenses of a temple in perpetuity, held not to be an hereditary allowance and not to require registration.—*Vishnu Ganesh Joshi v. Peshvantrao*, 21 Bom. 387. But a transfer of a hereditary

office, which is immoveable property must if its value exceeds Rs. 100 be registered of the transfer be for value; and if it is by gift, it must be registered irrespectively of the value of the property, 7 Bom. H. C. (A. C.) 1.

PAGE II.
Establishment
5-3

Trees are to be held moveable property for the special purposes of the Registration Act, but they are not ordinarily so regarded in Indian Acts.—*Chaudhury Roostum Ali v. Dhandoo*, 3 Agra, 157—and a sale-certificate from a Civil Court having regard to trees only, is therefore treated like other sale certificates as a document relating to immoveable property and filed in Book 1.

It is questionable, however, whether the language of the Registration Act does make trees "moveable property" except in the case of timber trees. By differentiating timber and the fruit and juice of trees, it would seem that a tree leased to a person for the purpose of gathering its fruit and with no right to cut it down or use it as timber, would constitute a lease of immoveable property. On the other hand if a mango tree though, primarily a fruit bearing tree is according to the custom of a particular locality used in building or repairing houses, it can be taken to be a timber tree for the purposes of this section.—*Krishna Rao v. Babaji*, 24 Bom. 31 : (s. c.) 1 Bom. L. R. 489.

An unregistered instrument to cut and enjoy trees &c., for four years purported to convey an interest in immoveable property and was not a lease.—*Seeni Chethiar v. Santhanathan Chethiar*, 20 Mad. 58. Distinguished in *Mathura Das v. Jaubir Thapa*, 28 All. 277.

The true rule seems to be: Whether trees are moveable or immoveable property within the meaning of this Act, depends upon the nature of the transaction and the intentions of the parties thereto.—*Sakharam v. Gopal*, 9 C. P. L. R. 53; 6 M. H. C. 71, and also W. A. 20. Right to future fruits on trees under sec. 3 (25), General Clauses Act, 1897, is immoveable property, 66 P. R. 1900. A right of pre-emption is immoveable property, 37 P. R. 1888. A judgment-debtor's interest in a hypothecation bond attached and sold by the decree-holder, was held to fall under immoveable property for registration purposes.—*Appasami v. Scott*, 9 Mad. 5; so also decree for the sale of immoveable property passed on a hypothecation bond has been held to be immoveable property, 1 Bom. 267; 9 Cal. 839; 9 Cal. 520; 4 M. H. C. 378; 18 Bom. 832; Cf. 11 B. 508.

Tari palms and cocoanut trees are immoveable property, U. B. R. 1903, 3rd quarter Registration, p. 1.

Hereditary allowances due to the office of *desai* is not compulsorily registrable under Act XX of 1886.—*Desai Motilal v. Desai Parashotam*, 18 Bom. 92. See also 19 Bom. 663 and 24 Bom. 615.

The word "book" in this Act applies only to the register-books I, II, III, IV, V, kept under the Act, and care must be taken not to apply this definition to any other books mentioned in the rules or departmental orders or in any other Act.

Para. 70 of the Instructions and Orders, gives the definition of a minor under the Indian Majority Act. The effect of the appointment of a guardian on the age of majority must be carefully noted. The three rulings quoted below will clearly distinguish the general cases. *

A person made a guardian of a minor by his father's will, is not one "appointed by a Court of Justice within the meaning of clause I, s. 3, Act IX of

Part II.
Section 4-B.

1876, even although he applies for and obtains probate of the will from the Court, and the minor attains majority on his completing the age of 18 years.—*Jogesh Chunder Chuckerbutty v. Umatara Debi*, 2 C. L. R. 577.

The appointment of a guardian *ad litem* is sufficient to make the minor party subject to s. 3, Act IX of 1875, and to constitute his period of majority at 21, at any rate so far as relates to the property in suit, notwithstanding that such minor would but for such appointment have attained majority at 18.—*Sutya Ghosal v. Sutymanand Ghosal*, I. L. R. 1 Cal. 388.

When a guardian has once been appointed to a minor under the provisions of Act XL of 1858, the disability of infancy will last till the age of 21, whether the original guardian continues to act or not.—*Rudra Prokash Misser v. Bholanath Mukerjee*, I. L. R. 12 Cal. 612. See also *Birjmohun Lal v. Rudra Prokash Misser* I. L. R. 17 Cal. 944.

There is also one special case to be noticed. The age of majority of a Hindu, resident and domiciled in the town of Calcutta and not possessed of any property in the mofussil, is the end of 15 years.—*Cally Churn Mullick v. Bhuggobutty Churn Mullick*, 10 B. L. R., F. B., 231 : (s. c.) 19 W. R. 110.

Standing timber is moveable property.—*Abdulullah v. Ashrup Ali*, 7 O. L. J. 155 : the right to take juice of date trees.—*Jolu Nander v. Baicha Nander*, 3 B. Z. R. A. C. 394 ; *Janoo v. Hucha*, 12 W. R. 366. Gum of trees is also moveable property.—*R. G. Grr and others v. Ambalem*, 5 M. L. J. 27.

The registration districts in Bengal are conterminous with the jurisdiction of the District Magistrates who are also District Registrars. The district of Calcutta is conterminous with the ordinary original civil jurisdiction of the High Court.

Sub-districts are generally conterminous with the boundaries of sub-divisions, thanas and outposts except in the case of joint offices having concurrent jurisdiction with the parent office, of which there may be any number in one out-post.

A document relating to immoveable property situated partly within British India and partly outside British India can be registered in the district in which a portion of the property is situate.—*Gopal Amrit v. Annabhat*, 25 Bom. 50.

4. (1) The Governor of Bombay in Council may also, with the previous consent of the Governor Branch Inspector General of Sindh. General in Council, appoint an officer to be Branch Inspector General of Sindh, who shall have all the powers of an Inspector General under this Act other than the power to frame rules hereinafter conferred.

(2) The Branch Inspector General of Sindh may hold simultaneously any other office under Government.

5. (1) For the purposes of this Act, the Local Government shall form districts and sub-districts, Districts and sub-districts. and shall prescribe, and may alter, the limits of such districts and sub-districts.

(2) The districts and sub-districts formed under this section, together with the limits thereof, and every alteration of such limits, shall be notified in the local Official Gazette.

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—
Ss. 5-7.

(3) Every such alteration shall take effect on such day after the date of the notification as is therein mentioned.

Notification under s. 5 cannot operate retrospectively :—

The third para. of s. 5 of the Registration Act (III of 1877.) very clearly provided that territorial changes shall take effect after the date of the notification on a day to be mentioned. In the face of this enactment it is not possible for Government by notification to sanction or give validity to such changes respectively. *Memo. by the L. R. as recorded in the B. G. R. No. 5028, 14th July 1886, R. D.*

6. The Local Government may appoint such persons **Registrars and Sub-Registrars.** whether public officers or not, as it thinks proper, to be Registrars of the several districts, and to be Sub-Registrars of the several sub-districts, formed as aforesaid, respectively.

A District Registrar was held not to be a Court within the meaning of S. 622 Civil Procedure Code 1882 17 M. L. J. 313 ; (r. c.) 30 Mad. 326 ; 2 M. L. J. 267.

It is now the established policy of the Government of Bengal to appoint persons who are not public officers. The only districts where the work is now done by *ex-officio* Sub-Registrars are Singbhoom, Darjeeling, Angul, and the offices of Alipore (Buxa) in the Dooars and Pakour in the Sonthal Pergunnahs.

7. (1) The Local Government shall establish in every district an office to be styled the office **Offices of Registrar and Sub-Registrar.** of the Registrar and in every sub-district an office or offices to be styled the office of the Sub-Registrar, or the offices of the Joint Sub-Registrars.

(2) The Local Government may amalgamate with any office of a Registrar any office of a Sub-Registrar subordinate to such Registrar, and may authorize any Sub-Registrar whose office has been so amalgamated to exercise and

**PART II.
Establishment.**

Ss. 8-10.

perform, in addition to his own powers and duties, all or any of the powers and duties of the Registrar to whom he is subordinate :

Provided that no such authorization shall enable a Sub-Registrar to hear an appeal against an order passed by himself under this Act

This amalgamation has now taken place in every sudder office in Bengal.

Registration of deed relating to property in separate registration sub-district :—Where a Sub-Registrar empowered under s. 7 of the Act to discharge the duties of District Registrar, registered a bond which might have been registered by the Registrar at his discretion under s. 30 (a) of the Act, *held*,* that the bond was validly registered and that any doubt as to the validity of the registration was removed by s. 87 of the Act, *Jogsewar Narain Singh and others v. Rai Radha Raman and others*, 5 C. L. J. 165.

8. (1) The Local Government may also appoint officers to be called Inspectors of registration-offices, and may prescribe the duties of such officers.

Inspectors of registration-offices.

(2) Every such Inspector shall be subordinate to the Inspector-General.

9. Every military cantonment may (if the Local Government so directs) be, for the purposes of this Act, a sub-district or a district, and the Cantonment Magistrate shall be the Sub-Registrar or the Registrar of such sub-district or district, as the case may be.

Military cantonments may be declared sub-districts or districts.

There are no such sub districts in Bengal. The cantonment of Dinapur is included in the rural sub-district of Dinapore, and that of Barrackpur in various sub-districts of the 24 Pergunnahs. There is also a rural office at Dum-Dum. All these are coterminous with the thanah jurisdictions of the Bengal Police and not with the cantonments.

10. (1) When any Registrar other than the Registrar of a district including a Presidency-town, is absent otherwise than on duty in his district, or when his office is temporarily vacant,

Absence of Registrar from his district or vacancy in his office.

any person whom the Inspector-General appoints in this behalf, or, in default of such appointment, the Judge of the District Court within the local limits of whose jurisdiction the Registrar's office is situate, shall be the Registrar during such absence or until the Local Government fills up the vacancy.

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Establishment.
Ss. 11-18.

(2.) When the Registrar of a district including a Presidency-town is absent otherwise than on duty in his district, or when his office is temporarily vacant, any person whom the Inspector General appoints in this behalf shall be the Registrar during such absence, or until the Local Government fills up the vacancy.

In Bengal there are no Registrars other than the Registrar of a district including the Registrar of the Presidency-town of Calcutta.

11. When any Registrar is absent from his office on duty in his district, he may appoint any Sub-Registrar or other person in his district to perform, during such absence, all the duties of a Registrar, except those mentioned in sections 68 and 72.

Absence of Registrar on duty in his district.

There are the rectification of errors and the hearing of appeals from the Sub-Registrar's own orders.

12. When any Sub-Registrar is absent, or when his office is temporarily vacant, any person whom the Registrar of the district appoints in this behalf shall be Sub-Registrar during such absence, or until the Local Government fills up the vacancy.

Absence of Sub-Registrar or vacancy in his office.

13. (1) All appointments made under section 10, section 11 or section 12 shall be reported to the Local Government by the Inspector-General.

Report of certain appointments, and suspension and removal and dismissal of officers.

(2) Such report shall be either special or general, as the Local Government directs.

(3) The Local Government may suspend, remove or dismiss any person appointed under the provisions of this Act, and appoint another person in his stead.

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Establishment.
Ss. 14-15.

14. (1) Subject to the approval of the Governor-General in Council, the Local Government may assign such salaries as such Government deems proper to the registering officers appointed under this Act, or provide for their remuneration by fees or partly by fees, and partly by salaries.

(2) The Local Government may allow proper establishments for the several offices under this Act.

Sudder offices have a regular fixed establishment, the pay of which varies from Rs. 40 or Rs. 35 for a head clerk and Rs. 15 for a Moharrir.

A clerk appointed by a Sub-Registrar and paid out of an allowance given to the Sub-Registrar is not a public servant within the meaning of section 21 Indian Penal Code. *Bhagwati Sahai v. Emperor* 1 L R. 32 Cal., 664.

15. (1) The several Registrars and Sub-Registrars shall use a seal bearing the following inscription in English and in such other language as the Local Government directs:—"The seal of the Registrar (or of the Sub-Registrar) of....."

16. (1) The Local Government shall provide for the office of every registering officer the books necessary for the purposes of this Act.

(2) The books so provided shall contain the forms from time to time prescribed by the Inspector-General with the sanction of the Local Government, and the pages of such books shall be consecutively numbered in print, and the number of pages in each book shall be certified on the title page by the officer by whom such books are issued.

(3) The Local Government shall supply the office of every Registrar with a fire-proof box, and shall in each district make suitable provision for the safe custody of the records connected with the registration of documents in such district.

PART III.

OF REGISTRABLE DOCUMENTS.

17. The following documents shall be registered,

Documents of which registration is compulsory.

if the property to which they relate is situate in a district in which, and if they have been executed on or after the date on which, Act No. XVI of 1864, or the Indian Registration Act, 1866, or the Indian Registration Act, 1871, or the Indian Registration Act, 1877, or this Act came or comes into force, namely :—

XX of 1866, VIII of 1871, III of 1877.

- (a) instruments of gift of immoveable property ;
- (b) other non-testamentary instruments which purport or operate to create, declare, assign limit or extinguish, whether in present or in future, any right, title or interest, whether vested or contingent, of the value of one hundred rupees and upwards, to or in immoveable property ;
- (c) non-testamentary instruments which acknowledge the receipt or payment of any consideration on account of the creation, declaration, assignment, limitation or extinction of any such right, title or interest ; and

This clause does not render a passage in a will inadmissible in evidence if the words of it do not purport or operate to extinguish an interest in the present or future but state only past facts.—*Chamanbhai Javji, etc. v. Multanchand Shie-ram*, 28 Bom. 562.

- (d) leases of immoveable property from year to year, or for any term exceeding one year, or reserving a yearly rent :

Provided that the Local Government may, by order published in the local official Gazette, exempt from the operation of this sub-section any leases executed in any district, or part of a district, the terms granted by which do not exceed five years and the annual rents reserved by which do not exceed fifty rupees.

† Cl. (f) was inserted by Act VII of 1886, s. 2, printed General Acts, 1885—86, Ed. 1889, p. 62.
H. R. A.

PART III.
Documents.
S. 17.

(9) Nothing in clauses (b) and (c) of sub-section (1) applies to—

- (i) any composition-deed : or
- (ii) any instrument relating to shares in a Joint Stock Company, notwithstanding that the assets of such Company consist in whole or in part of immoveable property ; or
- (iii) any debenture issued by any such Company and not creating, declaring, assigning, limiting or extinguishing any right, title or interest, to or in immoveable property except in so far as it entitles the holder to the security afforded by a registered instrument whereby the Company has mortgaged, conveyed or otherwise transferred the whole or part of its immoveable property or any interest therein to trustees upon trust for the benefit of the holders of such debentures ; or
- (iv) any endorsement upon or transfer of any debenture issued by any such Company ; or
- (v) any document not itself creating, declaring, assigning, limiting, or extinguishing any right, title or interest of the value of one hundred rupees and upwards to or in immoveable property, but merely creating a right to obtain another document which will, when executed, create, declare, assign, limit or extinguish any such right, title or interest ; or
- (vi) any decree or order of a Court and any award ; or
- (vii) any grant of immoveable property by Government ; or
- (viii) any instrument of partition made by a Revenue-officer ; or

(ix) any order granting a loan or instrument of collateral security granted under the Land Improvement Act, 1871, or the Land Improvement Loans Act, 1883; or*

(x) any order† granting a loan under the Agriculturists Loans Act, 1884,‡ or instrument for securing the repayment of a loan made under that Act; or

(xi) any endorsement on a mortgage-deed acknowledging the payment of the whole or any part of the mortgage-money, and any other receipt for payment of money due under a mortgage when the receipt does not purport to extinguish the mortgage; § or

(xii) any certificate of sale granted to the purchaser of any property sold by public auction by a Civil or Revenue-officer.||

(3) Authorities to adopt a son, executed after the first day of January 1872 and not conferred by a will, shall also be registered.¶

Section 17. The registration of a document can only be said to be compulsory when it is brought under s. 17 of the Indian Registration Act by a Specific Act of the Legislature. By Act III of 1885, the following sections of the Transfer of

* Cl. (l) is printed as amended by Act XIX of 1883, ss. 2 and 12 (printed General Acts, 1882—84, Pt. II, Ed. 1885, p. 347).

† Cl. (m) was added by Act VII of 1886, s. 3 (1), printed (General Acts, 1885—88, Ed. 1889, p. 62.

‡ Printed General Acts, 1882—84, Pt. II, Ed. 1885, p. 433.

§ Cl. (n) was added by Act VII of 1886, s. 4, printed (General Acts, 1885—88, Ed. 1889, p. 62.

|| Cl. (o) was added by Act VII of 1888, s. 65 (1), and is to be construed as if it had been inserted by Act XII of 1879. See Act VII of 1888, s. 65 (3), in General Acts, 1885—88, Ed. 1889, p. 239.

¶ Also memoranda appointing new trustees under the Religious Societies Act, Act I of 1830, s. 3, in General Acts, 1877—81, Cal., 1884, p. 365.

PART III. Documents. Property Act (IV of 1882) are to be read as supplemental to the Indian Registration Act, III of 1877. See *Soma-Sundari Mudali v. Duroisami Mudaliar*, S. 17. 27 Mad., 30.

The latest ruling of the Madras High Court in *Nagaruru Sambayya v. Tangatur Subbaya*, 31 Mad. 330, lays down that a security bond given to the Court under section 545, C. P. C., and pledging immoveable property is compulsorily registrable notwithstanding the order of the Court, "Security accepted." The bond does not derive its validity from these words and it cannot therefore be brought within section 17, cl. (i). The Calcutta ruling in *Tokhan Singh v. Girwar Singh*, 32 Cal. 494, is relied on, but that ruling did not touch on the question of compulsory registration, and it is doubtful how far this extension of the law is consistent with the rule in *Pranal Anne's case*, L. R. 26 I. A. 101.

Section 54 (2). Transfer (by sale) in the case of tangible immoveable property of the value of Rs. 100 and upwards, or in the case of a reversion or other intangible thing, can be made only by a registered instrument.

(3) In the case of tangible immoveable property of the value of less than Rs. 100, such transfer may be made either by a registered instrument or by delivery of the property.

Section 59. Where the principal money secured is Rs. 100 or upwards a mortgage can be effected only by a registered instrument signed by the mortgagor and attested by at least two witnesses.

Where the principal money secured is less than Rs. 100, a mortgage may be effected either by an instrument signed and attested as aforesaid or (except in the case of a simple mortgage) by delivery of the property.

Nothing in this section shall be deemed to render invalid mortgages made in the towns of Calcutta, Madras, Bombay, Karachi and Rangoon by delivery to a creditor or his agent of documents of title to immoveable property with intent to create a security thereon.

Section 107. A lease of immoveable property from year to year or for any term exceeding one year, or reserving a yearly rent, can be made only by a registered instrument.

All other leases of immoveable property may be made either by an instrument or by oral agreement.

Section 123. For the purposes of making a gift of immoveable property the transfer must be effected by a registered instrument signed by or on behalf of the donor and attested by at least two witnesses.

For the purposes of making a gift of moveable property, the transfer may be effected either by a registered instrument signed as aforesaid or by delivery.

Such delivery may be made in the same way as goods sold may be delivered.

Section 118 must also be noted, though it is not read as part of Act III of 1877 as the above sections are.

"When two persons mutually transfer the ownership of one thing for the ownership of another, neither thing or both thing being money only, the transaction is called an 'exchange.'"

"A transfer of property in completion of an exchange can be made only in manner provided for the transfer of such property by sale."

It will thus be seen that the registration of deeds of sale, exchange and mortgage of the value of Rs. 100 and upwards, leases as specified in s. 107 and deeds of gift of immoveable property is rendered compulsory.

Deeds of sale and exchange of under Rs. 100 in value and deeds of gift of moveable property must be registered if they are the means of transfer, but it has been held in certain cases that unregistered deeds of this nature may be accepted in evidence as collateral testimony of other matters.

The dictum of Garth, C. J., in *Narain Chunder Chuckerbutty v. Dataram Roy*, I. L. R., 8 Cal., 612, the first Full Bench ruling after the passing of the Transfer of Property Act may be noted as a clear exposition of the law.

"As I read the Transfer of Property Act which was passed the other day s. 54 does virtually abolish optional registration. No transfer can now be made, after that Act comes into operation, by any instrument in writing, unless it is registered.

"It is true that in the case of possessory interests the value of which is less than Rs. 100 an oral transfer coupled with possession will pass the property ; but there will be no such thing as a transfer in writing unless it is registered. A registered transfer *without delivery of possession* will pass any interest in land. whether in possession or otherwise ; and when the value of the interest amounts to Rs 100, there is no other means of transferring it." As regards deeds of sale of less than Rs. 100 in value, vide *infra*, note to s. 48.

This dictum was dissented from in *Khatu Bibi v. Madhuram Barsick* I. L. R., 16 Cal., 622, and the dissent was emphasised by the ambiguous wording of the report of the case of *Topa Bibi v. Ashanullah Sirdar*, I. L. R., 16 Cal., 509, which was reported to lay down that under the Registration Act of 1877 a suit lies by a purchaser to compel registration of his kobala in a case in which the value of the property conveyed is under Rs. 100, and *in which, therefore, the registration of the deed is not compulsory*.

There is also the case of *Chandra Kishore Munshi v. Dinendra Nath Sanyal* (reported in I C. L. R., 126) in which Norris and Banerjee JJ. held in 1894 that the provisions of Part VII of the Act are applicable to the case of an executant of a document the registration of which is optional, and the refusal of such an executant to admit execution gives rise to a cause of action under s. 77 of the Act.

However this may be the main question has now been set at rest by the Full Bench ruling in *Mukhan Lal Pal v. Bantu Behari Ghose*, I. L. R., 19 Cal., 623, by which *Khatu Bibi v. Madhuram Barsick* has been overruled. It is now laid down that the transfer by sale of immoveable property of a value of less than Rs. 100 can be effected only by one of the two modes mentioned in s. 54 para. 3 of the Transfer of Property Act, *viz.* by a registered instrument or by delivery of possession.

As to what amounts to delivery of possession see the case of *Gunga Narain Gope v. Kalicharan Goala* (22 Cal., 179).

Registering officers have nothing to do with the question of Registration being compulsory or otherwise. They should avoid giving decisions on points of

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law except when sitting for the Registrar as a Court of Appeal, and in making entries of refusals in Book II. They have only to deal with the deeds before them, and their duty of giving gratuitous advice only extends to questions of stamp duty and the formalities required by the rules.

It is what is expressed on the face of a document and not the incidents attaching to it by custom or otherwise that determines whether a document requires Registration or not, 13 M. L. J. 356. *Ramaswamy Ayyan v. Thirupatti Naik*, 27 Mad., 43.

Division D sections 20 to 28 Act II of 1899 (The General Stamp Act) governs the valuation of documents for the purposes of stamp duty.

The question of valuation of a document for purposes of registration under s. 17 often presents some difficulty, however, and there has been some conflict in the decisions of the Courts in this matter.

A few cases bearing on the general principles may here be quoted. A more complete list of the reported cases under each section will be found in the Table of Cases prefixed to this volume.

Hibbasnamas of immoveable property though containing as they often do nominal considerations such as "a thán of cloth," are really deeds of gift, and must be registered.—*Putona Kolita v. Mutia Kolita*, 2 B. L. R., Ap. 46; *Golam Mastafa v. Goburdhun Mulla*, 8 C. L. R., 441.

The consideration mentioned by the parties to a deed of sale must be regarded as showing the value of the interest conveyed for registration purposes.—*Vasudev Moreswar Gunpule v. Rama Babaji Dange*, 11 Bom., 149.

A document drawn up mainly for the purposes of settling a widow's maintenance if it contain a declaration or creation of some right in immoveable property of the value of Rs. 100 or upwards, must be registered even though the value of the widow's right does not exceed that sum.—*Nilava Kom Rachappa v. Rudraya bin Rachappa*, 12 Bom., 141.

The value of the right, title or interest created by a mortgage is estimated by the amount of the principal money thereby secured. The words "or in future" in Acts XX of 1866 and VIII 1871 do not apply to interest payable in future on principal moneys lent on the security of immoveable property. The same is the case with bonds creating a charge on immoveable property of less than Rs. 100, even though they provide for the future payment of a larger sum on contingency.—*Nana bin Lakhsman v. Anant Babaji*, I. L. R., 2 Bom., 353; *Tiyagaraja Padyachi v. Ramanujam Pillai*, I. L. R., 6 Mad., 422; *Rajpati Singh v. Ram Sukhi Kuar*, I. L. R., 2 All., 40.

These decisions would equally apply to the present Act, but they appear to have been differed from his several contemporary rulings, and the law now appears to be that the proper test for determining the value of the interest created by a mortgage for the purpose of registration is the amount of the least sum recoverable, *i. e.*, the least sum which the debtor could compel the creditor to accept and not the consideration for the bond.—*Kattamuri Jagoppa v. Perdalu* I. L. R 5 Mad, 119; *Darshan Singh v. Hanwanta*, I. L. R., 1 All., 274.

The distinction is more clearly brought out by comparing the last mentioned ruling with that in *Sudagopa Ayyangar v. Dorasami Sastri*, I. L. R. 5 Mad., 214.

In the latter it is laid down that the registration of a deed which does not necessarily create an interest in immoveable property of the value of Rs. 100 is not compulsory. A bond for Rs. 99-8 with interest at 12 per cent. per annum, payable 12 months after date, by which immoveable property is hypothecated to secure repayment of the debt, need not be registered.

In the former a bond which charged immoveable property with the payment on a day specified therein of Rs. 99, the principal amount, and Rs. 6 interest thereon should have been registered.

It is true, the Madras Judges stated in their judgment that they differed from the decision of the Allahabad Court in *Darshan Singh v. Hanwantia*, but I venture to think with hardly sufficient reason as the two judgments are totally distinct and indicate with considerable accuracy the rather fine line which is to be drawn in the valuation of these cases for registration purposes. It will of course be borne in mind that these remarks do not apply to the compulsory character of the registration which has been fully discussed above, p. 132, in the light of the transfer of Property Act, but merely to the valuation of the deed for registration purposes.

The question has been more recently discussed in *Kunhi Amma v. Ahmed Haji* (23, Mad., 105.) where after laying down the rule that the least sum payable is the test, O'Farrel and Michell JJ. go on to say that under section 17 (b) only the principal amount secured should be taken into consideration.

Rule 66 of the rules framed under s. 69, Act III of 1877, which have the force of law, lays down that a document shall be refused registration if the presenting party refuses to pay the proper fee, and as the fees for documents below Rs. 100 in value differ from those of above Rs. 100 in value, this distinction becomes important.

The interest of an occupancy-tenant in his holding is a right or interest in Immoveable property, and consequently a bond for over Rs. 100 on the security of such holding is to be registered.—*Nabiru Rui v. Aehumpat Rai*, I. L. R., 3 All 422.

Where a bond pledges land for sums to be hereafter advanced not exceeding Rs. 100, and the sums actually advanced exceed that amount, registration of the bond becomes necessary.—*Perrin v. Ledlie*, 15 W. R., 364 ; *Banno v. Pir Mohamed*, I. L. R., 2 All., 688.

It has however been held in *Ranji Mal v. Chhote Lal* (29, All. 50.) that there is nothing in the Act XX to render illegal the division of what was apparently one mortgage relative to loan of Rs. 198 into two mortgages of even date each for Rs. 99.

See also *Subramaniam v. Perumal Reddi*, (18 Mad., 454) where the above rule seems to have been considerably modified.

A bond for money in which land is pledged as a mere collateral security is not one of the instruments defined in cl. (b), s. 17, Act III of 1877, and registration is optional, but a letter depositing title-deeds as collateral security must be registered.—*Woodoy Chand*Jana v. Nitye Mundul*, 9 W. R., 111 ; *Gopal Prasad v. Nandarani*, 1 B. L. R., A. C., 192 ; *Dwarka Nath Miller v. Sarat Kumari Dasi*, 7 B. L. R., 55.

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An advance of Rs. 100 on an agreement of sale of immoveable property showing that the intention was that the purchaser should have a security on the property for the money advanced was held to be a transaction which must be registered.—*Joy Ram Gossain Bhuttacharjee v. Kalee Narain Roy*, 20 W. R., 291. See also *Hormasji Manekji Dadachangi v. Keshav Purshotam*. (18 Bom., 13.)

A covenant to pay a monthly sum for the use and hire of machinery, sheds, and a bungalow must be registered.—*Winterscale v. Gopal Chandra Seal* 3 B. L. R., O. C., 90.

An assignment of a decree for a sale in execution of immoveable property obtained by a mortgagee must be registered.—*Gopal Narain v. Trimbok Sadasiv*, I. L. R., 1 Bom., 267. 17 Bom., 235, 13 All. 89.

But this ruling has been dissented from in *Gous Mahomed v. Khawas Ali Khan*, (23 Cal., 450) which has been followed in *Ram Ratan Chakerbutty v. Jogesh Chandra Bhattacharya*, 12 C. W. N., 625. and *Raj Nath Laha v. Binoyendra Nath Palit*, 6 C. W. N., 5.

As regards sale-certificates, see *infra* s. 89.

A covenant for title running with the land would seem to be an instrument which must be registered if it comes within cls. (a) to (d), s. 17, Act III of 1877 unless it comes within the exceptive cls. (e) to (o) of the same section.—*Raju Balu v. Krishnarav Ram Chandra*, I. L. R., 2 Bom., 273. But see 18 Bom., 92.

An endorsement on a deed of sale to the effect that it is returned because (he purchaser is unable to pay the purchase-money must itself be registered (*Unedmal Motiram v. Davabin Dhondiba*, I. L. R., 2 Bom., 547), but endorse ments of payment generally which do not purport to extinguish an interest in immoveable property and are merely memoranda need not be registered to make them evidence of payment.—*Jiwans Ali Beg v. Basu Mal*, I. L. R., 9 All., 108.

A letter offering to purchase immoveable property endorsed with an acceptance on the part of the vendor need not be registered, unless it constitutes a complete contract and even then, *quære*.—*Waman Ram Chandra v. Dhondiba Krishnaji*, I. L. R., 4 Bom., 126.

An acknowledgment of a partition if in the form of a receipt must be registered. The decision in *Nem Roy v. Lalmun Roy* does not apply to the present law (25 W. R., 376) Under Act III of 1877 deeds of partition, except those made by Revenue officers must be registered. There appears to be a mistake in Woodman's Digest column 4779 where the above ruling is reported. Vide also *Sakharam Krishnaji v. Madan Krishnaji*, 5 Bom., 232.

A document which gives a person a right to redeem a mortgage on immoveable property on payment of money creates an interest in immovable property and its registration is compulsory. *Mutha Venkata Chelapati v. Pyanda Venkanta Chelapati*, 27 Mad., 348.

Releases and surrenders of claims on immoveable property even though ostensibly receipts for consideration require to be registered unless they are surrenders by a tenant to his landlord exempted from the payment of stamp duty.—*Safdar Ali Khan v. Lachman Dass*, I. L. R., 2 All., 554; *Gurdial Mal v. Jauhari Mal*, I. L. R., 7 All., 820; *Bhyrub Chundra Dass v. Kalee Chunder Chuckerbutty*, 16 W. R., 56; *Jadav Rughanath v. Rajji Himmat*, 9 Bom., 249.

Basava v. Kalkappa, 2 Bom., 889; *Mandalal v. Gurditta*, 2, P. L. R., 615
Inam Ali v. Baijanath Ram Sahu, 33 Cal., 613. (S. C.) 10, C. W. N., 551.

A release of a part of mortgaged property on part payment of the mortgage debt by purchase by a stranger effected by endorsement on the bond does not require registration. *Gunga Baksh v. Juggannath*, 27 All. 305.

A document whereby a Mahammedan daughter relinquished her right of inheritance in her father's property did not fall within s. 17, but within s. 18 (d & ff), (d) as to jewels which she had a present right to, (ff), as to her right of heirship. *Abdool Hoosein v. Goolam Hoosein*, 30 Bom., 304.

A deed of relinquishment by a tenant to a landholder in consideration of a remission of arrears of rent is not admissible in evidence unless registered. *Rangayya Appa Rau v. Kameswara Rau*, 20 Mad., 367.

A receipt which purported to be a mere settlement of accounts and was not intended to modify or supersede the original mortgage did not require registration (*Lakshman v. Damodur*, 24 Bom., 609).

But a receipt which created or extinguished a right to the property with a superadded covenant to execute a stamped document to the same effect on a future occasion required registration. *Parashram v. Ganpat*, 21 Bom., 533.

A personal covenant to retransfer land by effecting a mutation of names when the debt due was satisfied does not require registration. *Patel Ranchod v. Bhikabai*, 21 Bom., 704.

"An agreement for a lease needs registration, even though it is not the lease itself, if the parties to such an agreement intend to create a present demise.—*Purmanand Das Jewandas v. Dharsey Virji*, I. L. R., 10 Bom., 101. (F.B.)
Syed Sufdar Reza v. Amzad Ali, 7 Cal., 703; distinguished in *Dwarkanath Saha v. Ledu Sikdar*, 33 Cal., 502.

An agreement unregistered in a previous plaint to reduce rent held not to operate as a lease, but was merely a variation of the lease and therefore did not require registration. *Satyesh Chunder Sircar v. Dhunput Singh*, 24 Cal., 20; *Obai Goundan v. Ramalinga Ayyar*, 22 Mad., 217.

The principle upon which leases with option to renew or continue the tenure are to be interpreted is the question whether the absolute right of the lessee is restricted to one year. If it is, registration is not compulsory; if not it is—I. L. R., *passim* vide *Jivraj Gopal v. Atmaram Dayaram*, I. L. R., 14 Bom., 319, where it is ruled that a lease to the defendant to live in two houses so long as the plaintiff permitted, and so long as he should pay the rent at Rs. 18 per annum, but he was to vacate when asked to do so by the plaintiff, created a tenancy at will, and did not require registration.—*Vide* also *Boyd v. Krieg*, I. L. R., 17 Cal., 548.
Seetharam Ragu v. Bayanna Pantalu, 17 Mad., 275.

A lease of immoveable property for the life of the lessee is a lease for a term exceeding one year and requires Registration. *Parshotam Vishnu v. Napa Prayag*, 18 Bom., 109.

Leases falling under s. 107 of the Transfer of Property Act are compulsorily registrable notwithstanding the Government notification under the proviso to sect. 17 d.). *Variananda Nadar v. Miyakan Rowler*, 21 Mad., 109. But see also 24 Mad., 421.

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A mere agreement to mortgage need not be registered unless it amounts to an equitable mortgage creating an interest in land of the value of Rs. 100 or upwards.—*Bengal Banking Corporation v. Makertich*, 1. L. R., 10 Cal., 315.

But an ikarnama creating a charge in the nature of a mortgage requires registration. It does not fall within the exception in cl. (h.) The mention of an intention to execute a deed of sale makes no difference. *Vani v. Bani*, 20 Bom., 553.

A letter containing an admission of a previous mortgage as having been already made does not require registration under s. 17 *Kedarnath Dutt v. Sham Lal Khetry*, 20 W. R., 150 followed. *Gokul Dass v. Eastern Mortgage and Agency Co.* 33 Cal., 410. (S. C.) 4 C. L. J. 102.

A document creating a right to obtain another document the registration of which is compulsory need not be registered.—*Burjorji Curselji Pathaki v. Muncherji Kuverji*, 1. L. R., 5 Bom., 143. *Harmendun Singh v. Jawadali*, 27 Cal., 468; *Sridhar Ballal Kalkar v. Chintamon Sadashiv Mehendall*, 18 Bom., 396. *Krishnan Nambudri v. Ruman Menon*, 20 Mad., 484. Unless it is sought to be used as a document of title, 18 Bom., 13. *Vide supra*, page.

A deed of assignment for a consideration of less than Rs. 100 of a mortgage for a consideration of Rs. 100 or upwards, need not be registered.—*Satra Kumaji v. Visram Hasjavda*, 1. L. R., 2 Bom., 97. nor of profits already due by a lambardar to a cosharer. *Damodar Das v. Girdhari Lal*, 27 All., 564.

But a document assigning inam rights over lands held by mirasi tenants including the right to recover the assessment fixed on them at Rs. 40 a year and also the right to full ownership of the land should the mirasi tenures come to an end must be registered under s. 17 cl. b. *Anandras v. Joti*, 24 Bom., 615.

An admission by a tenant in a book entry showing the extent of his holding and rate of rent is admissible in evidence without registration.—*Narain Coomari v. Ram Krishna Dass*, 1. L. R., 5 Cal., 364.

Clause 17 (n). The provisions of s. 17 (n) do not apply to a receipt which purports to extinguish not the entire mortgage but only the rights under the mortgage of one of two joint mortgagees. *Sriram v. Kesri Mal*, 18 All., 338.

A receipt which did not indicate any intention to extinguish or limit the mortgagor's interest held not to require registration. *Uppalakandi Kunhi v. Kunnan Mithal* 19 Mad., 288. 7 M. H. R., page 1 and 3 Mad., 53 distinguished.

Since the year 1894 there have been a large number and rulings under this section with regard to the necessity of registering petitions of compromise and composition deeds, and the effect of their inclusion in decrees and other proceedings of Court. This subject is so important that a complete synopsis of all the cases is given below.

The two cases decided by the Judicial Committee 25 I. A. 9 and 26 I. A. 101 have first to be noted.

In the case of *Bindesri Naik v. Gunga Sarun Sahu*, reported in 2 C. W. N., 129 as well as in 20 All., 171, and 25 I. A. 9 the Allahabad High Court held that judicial proceedings do not require to be registered under section 17 of Act III of 1877. On appeal to the Privy Council their Lordships of the Judicial Committee held that the provisions of the section do not apply to proper judicial

proceedings, whether consisting of pleadings filed by the parties or of orders made by the Court.

In the case of *Pranal Annee v. Lakshmi Annee*, reported in 3 C. W. N. 485 as well as in 22 Mad., 508 and 26 I. A. 101, The Judicial Committee held that an agreement of union not having been registered its stipulations were ineffectual to create in favour of the appellant any right, title, or interest to or in the lands in dispute; that the razinama in so far as it was submitted to and acted upon judicially by the Court, was in itself a step of judicial procedure not requiring registration and any order, pronounced in terms of it, constituted *Res Judicata* binding upon both parties to this appeal.

That if the decree had referred to or narrated the terms of compromise contained in the two agreements it would have been judicial evidence.

Distinguishing this ruling the case of *Muthayya v. Venkataratnam* (25, Mad., 553) may be noted where it was held that a petition withdrawing a suit and setting out the agreement arrived at required registration notwithstanding that the Court thereupon ordered the suit to be struck off and made an order as to costs. Also the case of *Kali Chavan Ghosal v. Ram Chandra Mandal* (30, Cal., 783) where the parties having settled their disputes in proceedings for obtaining Letters of Administration presented a petition dividing their shares. No order passed on this petition and the properties being of the value of over Rs. 100 it was held that the petition unless registered would be inadmissible in evidence.

In *Gupta Narain Das v. Bijoya Sunderi Debya* (2 C. W. N., 663), the head-note to which is too general, it was held that a compromise which has been in Court and has been admitted without objection as to its being unstamped and which does not purport or operate to create, declare, assign, limit, or extinguish any right, title, or interest in immoveable property need not be registered.

In *Lala Majlis Sahai v. Narain Bibi*, (7, C. W. N., 90) where a certificated guardian, acting as next friend to a minor in a suit, entered into a compromise with the defendant without the Court's leave, whereby it was agreed that the defendant should obtain a *mokurrari* lease in respect of certain lands belonging to the minor, and the Court gave a decree in the terms of such compromise; Held in a suit to eject defendant and to set aside the compromise decree, that although the guardian had been authorised by a previous order of the District Judge to grant leases on behalf of the minor, the lease in question, not having been granted by a registered instrument was invalid, and the compromise decree which the minor, under the express authority of the law, sought to avoid, could not be invoked as a substitute for a duly registered lease.

In *Birbhadra Rath v. Kalpataru Panda*, 1 C. L. J., 388, it was held that a petition of compromise purporting to declare the rights and interests of the parties to a suit worth more than one hundred rupees and to deal with properties not included in the suit must be registered and if unregistered cannot be enforced between the parties as a binding contract.

In *Raghubans Mani Singh v. Mahabir Singh*, 28 All., 78, it was held that where land the subject of litigation had been incorporated in a previous compromise decree the compromise could be received in evidence without registration, but this was disapproved in *Gurdeo Singh v. Chandrika Singh*, 5 C. L. J., 611,

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where the law on this point was discussed at length with reference to all the above rulings as well as *Patha v. Esup*, 29 Mad., 365, and *Achiaramaraju v. Subbaraju*, 25 Mad., 7, and it was held that a petition of compromise, in so far as it relates to properties in suit, does not require registration, and the decree in so far as it gives effect to the settlement touching such properties operates as *res-judicata*. If it gives effect to the settlement touching properties extraneous to the litigation, the decree is to that extent without jurisdiction and is inoperative. In relation to those extraneous properties the parties must fall back upon the petition itself, which cannot without registration effectively declare or create title to immovable property exceeding Rs. 100 in value:

In *Jasimuddin Biswas v. Bhuban Jelini*, 34 Cal., 456, a solehnama had been filed in a suit in 1893 by which plaintiffs agreed to take a smaller sum as damages and the parties made other terms. A decree was made on the basis of the compromise; Held, that although the terms of the solehnama regarding the taking of the lease could not have been enforced in execution of the decree, they must be held to be binding on the defendants as an agreement and that no objection could be taken to the admissibility of the solehnama on the ground of its being unregistered *etc.*

The case of *Gobinda Chandra Paul v. Dwarkanath Paul*, 34 Cal., 837; s. c. 7 C. L. J., 492; 12 C. W. N., 849, follows the Privy Council ruling in *Bindsri Naik* above.

In *Pitambar Gain v. Uddhab Mandal*, 12 Cal., C. W. N., 59, it was held that a petition of compromise containing a recital of a previous oral agreement for lease does not require registration or stamp. It was evidence of an oral agreement but not an agreement in itself.

But a petition of compromise filed in criminal proceedings providing for enhanced rent is not admissible without registration. *Biraj Mohini Dass v. Kedarnath Karmokar*, 12 C. W. N., 854.

A deed of partnership, which contained a clause stating Partnership that the partnership property was mortgaged, and giving one only of the partners a right of redemption for and during a future period of limited duration, was held to declare a right in immoveable property, and therefore to need registration. *Maung Po Hti v. Mahomed Cassim* 30 Cal., 1016; 7 C. W. N., 861; L. R., 30 I. A., 230.

Documents of which
registration is optional.

18. Any of the following documents
may be registered under this Act *namely*

(a) instruments (other than instruments of gift and wills) which purport or operate to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest, whether vested or contingent, of a value less than Rs. 100, to or in immoveable property :

(b) instruments acknowledging the receipt or payment of any consideration on account of the creation, declaration,

assignment, limitation or extinction of any such right, title or interest :

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(c) leases of immovable property for any term not exceeding one year, and leases exempted under section 17 :

(d) instruments (other than wills) which purport or operate to create, declare, assign, limit or extinguish any right, title or interest to or in movable property :

(e) wills : and

(f) all other documents not required by section 17 to be registered.

The cases cited under s. 17 include all the important questions which have arisen under this section also.

19. If any document duly presented for registration be in a language which the registering officer does not understand, and which is not commonly used in the district, he shall refuse to register the document, unless it be accompanied by a true translation into a language commonly used in the district and also by a true copy.

Documents in language not understood by registering officer.

Languages in common use.—The languages which have been declared to be in common use in Bengal are English and Bengali everywhere ; Bengali in all districts except the Patna Division and the districts of Bhagulpur and Monghyr, Hindi in the Patna, Bhagulpur and Chota Nagpore Divisions, in Sonthal Parganas and in the districts of Purneah, Darjiling and Jalpaigoree ; Uriah in the Orissa Division.

If the provisions of this section are not strictly followed, then it would not render the registration of a deed null and void. 24 W. R. 75 (Sc.) 15 B. L. R. 228 ; 2 I. A. 210 (P. C.)

20. (1) The registering officer may in his discretion refuse to accept for registration any document in which any interlineation, blank, erasure or alteration appears, unless the person executing the document attest with their signatures or initials such interlineation, blank, erasure or alteration.

Documents containing interlineations, blanks, erasures or alterations.

(2) If the registering officer registers any such document, he shall, at the time of registering the same, make a note in the register of such interlineation, blank, erasure or alteration.

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Bad drafting and handwriting.—One of the principal defects of the registration system in Bengal is the wretched drafting and illegible handwriting of the documents presented. This section does not provide any remedy for that; but registering officers should always return for correction passages which are illegible or unintelligible, or interlineate the actual words used in pencil over the top as a guide to the copyists.

Alteration.—Refusal by the executing party to initial an apparent alteration not materially affecting the instrument, unaccompanied by any suggestion that the alteration was improperly made after execution, does not render the document non-registrable.—*In the matter of the petition of Venkatasami Naik*, 4 M. H. R. 101.

21. (1) No non-testamentary document relating to im-
Description of pro-
 perty and maps or
 plans. movable property shall be accepted for
 registration, unless it contains a descrip-
 tion of such property sufficient to identify the same.

(2) Houses in towns shall be described as situate on the north or other side of the street or road *which should be specified* to which they front, and by their existing and former occupancies, and by their numbers if the houses in such street or road are numbered.

(3) Other houses and lands shall be described by their name, if any, and as being in the territorial division in which they are situate, and by their superficial contents, the roads and other properties on which they abut, and their existing occupancies, and also, whenever it is practicable, by reference to a Government map or survey.

(4) No non-testamentary document containing a map or plan of any property comprised therein shall be accepted for registration, unless it is accompanied by a true copy of the map or plan, or, in case such property is situate in several districts, by such number of true copies of the map or plan as are equal to the number of such districts.

Two instruments on one paper.—It has been held by the Madras High Court that where two instruments are contained in the same paper and relate to the same property, it is not a sufficient ground for refusing registration that in one of the documents the property is described only by reference to the other.—*In the matter of the petition of Venkatasami Naik*, 1 L. R., 4 Mad., 101.

Where a Mohammedan daughter relinquished her right of inheritance in her father's property and registration was refused on the ground of insufficient

description ; Held, that section 21 did not apply as no property was specified. When a Sub-registrar or Registrar receives a document and the registration fee and endorses the payment on the document and issues a commission he must be regarded as having exercised his discretion under section 21 and accepted the document for registration. But where the document does not relate to immoveable property the registering officer has no such discretion and it is open to the Civil Court to enquire into such question under section 77. An alteration to be material for the purpose of registration must affect the legal effect of the contract so as to make it cease to be the same instrument. *Suffell v. The Bank of England* (1892) 9, Q. B. D. 555, referred to. *Abdool Hoosein v. Goolam Hoosein*, 30 Bom., 304.

22. (1) Where it is in the opinion of the Local Government practicable to describe not being houses in towns, and lands by reference to a Government map or survey, the Local Government may, by rule made under this Act require that such houses and lands as aforesaid shall, for the purposes of section 21, be so described.

(2) Save as otherwise provided by any rule made under sub-section (1), failure to comply with the provisions of section 21 subsection (2) subsection (3) or shall not disentitle a document to be registered if the description of the property to which it relates is sufficient to identify that property.

When any question arises under the Registration Act as to the nature and effect of any instrument or the sufficiency of any description contained in it, the Court must endeavour to gather from the words used the intention of the parties, and give effect to it, and not require as a condition of registration that the instrument be drawn up in technical language.—*In the matter of the petition of Ven. katasami Naik*, I. L. R., 4 Mad., 101.

Where a deed gives the names of the Dihis and chaks but not the name of the districts the description is sufficient for purposes of registration.—*Chandra Kishore Munshi v. Dinendra Nath Sanyal*, 1 C. L. J., 126.

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Time of Pre-
sentation.

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OF THE TIME OF PRESENTATION.

23. Subject to the provisions contained in sections 24, 25, and 26, no document other than a will shall be accepted for registration unless presented for that purpose to the proper officer within four months from the date of its execution,

Time for presenting documents.

Provided that a copy of a decree or order, may be presented within four months from the day on which the decree or order was made, or, where it is appealable, within four months from the day on which it becomes final :

Rules 59—63, framed with the sanction of the Bengal Government under s 69 give a full and clear explanation of the duties of registering officers under this part of the Act read with s. 34 and Part XII. The general effect of the rulings of the Courts which do not so much concern the procedure in registration as the rights of parties in the Civil Courts will be found fully discussed in the note to s. 34. It is not essential for the registration of a document that it should be dated. Parol evidence is admissible to prove when the execution took place *Chandra Kishore Munshi v. Dinendra Nath Sanyal*, 1 C. L. J., 126.

24. Where there are several persons executing a document at different times, such document may be presented for registration and re-registration within four months from the date of each execution.

Documents executed by several persons at different times.

25. (1) If owing to urgent necessity or unavoidable accident, any document executed, or copy of a decree or order made, in British India is not presented for registration till after the expiration of the time hereinbefore prescribed in that behalf, the Registrar, in cases where the delay in presentation does not exceed four months, may direct that on payment of a fine not exceeding ten times the

Provision where delay in presentation is unavoidable.

amount of the proper registration-fee, such document shall be accepted for registration.

(2) Any application for such direction may be lodged with a Sub-Registrar, who shall forthwith forward it to the Registrar to whom he is subordinate. **SS. 26, 27.**

No suit lies under section 77 against an order made under section 24 refusing to direct a document to be accepted for registration. *Gangava v. Sayava*, 21 Bom., 699.

The Court has no jurisdiction to enquire into the exercise of the Registrar's discretion under s. 24. Where a document not presented within 30 days of Registrar's order was tacked on to a document presented in time and the description of the property was contained in the document tacked on, it was held in appeal that the document presented in time should be registered; (*Durga Singh v. Mathura Das*, 6 All., 460, approved.) The proviso to s. 34 allows a further period of four months (in addition to the four months allowed by s. 24) within which to appear subject to the conditions set out in the proviso. Held also that the document tacked on should not be copied as an annexure (*reversing Gokulbhoy v. Tullockchand*, 21 Bom., 69) to the registered document. Two distinct documents separately stamped and executed for different objects cannot be registered as one. The Registrar had no power to enquire what document was referred to in the document he was asked to register. If he could not register the two documents as one, neither could the Court do so under s. 77. *Tullockchand v. Gokulbhoy*, 21 Bom., 724.

It must be carefully noted that this important section is now section 25 of the consolidated Act.

26. When a document purporting to have been executed by all or any of the parties out of British India is not presented for registration till after the expiration of the time hereinbefore prescribed in that behalf, the registering officer, if satisfied,

- (a) that the instrument was so executed, and
 - (b) that it has been presented for registration within four months after its arrival in British India,
- may, on payment of the proper registration-fee, accept such document for registration.

27. A will may at any time be presented for registration or deposited in manner hereinafter provided.

Wills may be presented or deposited at any time.

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Place of Reg-
istration.

PART V.

ss. 28.

OF THE PLACE OF REGISTRATION.

28. Save as in this Part otherwise provided, every document mentioned in section 17, clauses (a), (b), (c) and (d), and section 18, clause (a), (b) and (c), shall be presented for registration in the office of a Sub-Registrar within whose sub-district the whole or some portion of the property to which such document relates is situate.

Place for register-
ing documents relating
to land.

The requirements of s. 28 of Act VIII of 1871, which is the same as s. 28 above, are fulfilled by the registration of a document relating to immoveable property in the office of the Sub-Registrar within whose sub-district any portion of the property is situate. The words "some portion of the property" are not to be read as meaning some substantial portion of the property. All matters of publicity which it is the object of a Register to afford are provided for in this respect, by the carrying out of the provisions of ss. 64, 65 and 66.—*Hari Ram v. Sheodayal Mal*, I. L. R., 11 All., 136; reversing the decision of the High Court in *Sheodayal Mal v. Hari Ram*, I. L. R., 7 All., 590.

This important ruling was confirmed on appeal to the Privy Council.—L. R., 16 I. A., 12.

The cases which are actually of most frequent occurrence in Bengal are not entirely covered by this ruling. Parties who, to suit their own convenience or from fraudulent motives, desire to register in an office within which no portion of the property is situated frequently insert a fragment of entirely fictitious property within the jurisdiction of the office at which they present the deed. This is sometimes done with a view to perpetrate a fraud before there is time for the provision of ss. 64, 65, and 66 to take effect.

The only way to guard against this is to see that the departmental orders as to short notes (para. 47, Instructions and Orders,) are strictly carried out and that the description of the property is sufficient in all cases under s. 21. If this is done registering officers may safely follow the above ruling.

The general tenor of the decisions under this section is to the effect that the Civil Courts cannot reject a document which has been certified as registered merely on the ground that the property affected is outside the jurisdiction of the registering officer. See the note to s. 60, *post*.

The most recent ruling in *Joginee Mohun Chatterjee v. Bhoot Nath Ghosal*, 29 Cal., 654; s. c. 6 C. W. N., 856 may here be noted as the previous cases are there-in referred to and commented upon. It was held that where registration of a deed has been effected by a Registrar having no jurisdiction in that behalf under

section 28 of the Act, the document is not effective for the purposes for which it is created. No satisfactory evidence having been given as to the existence of the immoveable property purported to be hypothecated within the jurisdiction of the Subregistrar, Held that the document could not take effect as a mortgage-bond ; but, it being registered, the plaintiff's claim was not barred, though the suit was brought more than three years after the date of the execution of the deed ; and the plaintiff was entitled to a money decree for the whole amount secured by the deed, with interest at the contract rate.

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Place of Reg-
istration.

—
Ss. 29, 30.

29. (1) Every document other than a document referred to in section 28 and a copy of a decree or order, may be presented for registration either in the office of the Sub-Registrar in whose sub-district the document was executed, or in the office of any other Sub-Registrar under the Local Government at which all the persons executing and claiming under the document desire the same to be registered.

(2) A copy of a decree or order may be presented for registration in the office of the Sub-Registrar in whose sub-district the original decree or order was made, or, where the decree or order does not affect immoveable property, in the office of any other Sub-Registrar under the Local Government at which all the persons claiming under the decree or order desire the copy to be registered.

30. (1) Any Registrar may in his discretion receive and register any document which might be registered by any Sub-Registrar subordinate to him.

Registration by Re-
gistrars in certain cases.

A Subregistrar who was empowered under s. 7 to discharge the duties of a District Registrar registered a bond which might have been registered by the Registrar at his discretion under s. 30, cl (a) ; Held, that the bond was validly registered and that any doubt as to the validity of the registration was removed by section 87. (*Bajinath Tewari v. Sheo Sahai Bhagat*, 18, Cal., 556 F. B.) distinguished.

The levy of K fees held to be proof that the Sub-registrar registered the bond in the capacity of District Registrar. *Jogeswar Narain Singh v. Rai Radha Rawan*, 3, C. L. J. 165.

(2) The Registrar of a district including a Presidency-town and the Registrar of the Lahore district may receive

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—
Ss. 31, 32.

and register any document referred to in section 28 without regard to the situation in any part of British India of the property to which the document relates.

31. In ordinary cases the registration or deposit of documents under this Act shall be made only at the office of the officer authorized to accept the same for registration or deposit.

Registration or acceptance for deposit at private residence.

Provided that such officer may on special cause being shown attend at the residence of any person desiring to present a document for registration or to deposit a will, and accept for registration or deposit such document or will.

This section provides for visits by the registering officer in person, while ss. 33 and 38 provide for visits or issue of a commission. Under Act VIII of 1871, "any person intending to register any document" could on special cause shown procure the attendance of a registering officer. A high fee has been fixed for visits and commissions in order to discourage, as far as possible, the practice of taking the registering officer away from his head-quarters to the inconvenience of the general public.

PART VI.

OF PRESENTING DOCUMENTS FOR REGISTRATION.

32. Except in the cases mentioned in section 31 and section 89, every document to be registered under this Act, whether such registration be compulsory or optional, shall be presented at the proper registration-office,

Persons to present documents for registration.

(a) by some person executing or claiming under the same, or, in the case of a copy of a decree or order, claiming under the decree or order, or

(b) by the representative or assign of such person, or

(c) by the agent of such person, representative or assign, duly authorized by power of attorney executed and authenticated in manner hereinafter mentioned.

Presentation of a document by a person holding a power of attorney from a deceased person is not good presentation and registration effected at the instance of such a person is invalid. 3 Bom. L. R. 114.

A Registrar has no power or jurisdiction to register a deed unless he is moved by some person entitled to present it for registration under s. 32, i.e., by some person having a direct relationship to the deed. The absence of any party legally entitled to present a deed for registration is not merely a defect in procedure, falling under section 87, but goes to the jurisdiction of the Registrar and renders the deed invalid. *Mujib-un-nissa v. Abdul Rahim*, 5 C. W. N. 177; L. R. 28, I. A. 15, 23 All. 233.

33 (1) For the purposes of section 32, *the following* Power-of-attorney
recognizable for pur-
poses of s. 32. powers-of-attorney shall alone be recognized, *namely* :—

(a) if the principal at the time of executing the power-of-attorney resides in any part of British India in which this Act is for the time being in force, a power-of-attorney executed before and authenticated by the Registrar or Sub-Registrar within whose district or sub-district the principal resides :

(b) if the principal at the time aforesaid resides in any other part of British India, a power-of-attorney executed before and authenticated by any Magistrate :

(c) if the principal at the time aforesaid does not reside in British India, a power-of-attorney executed before and authenticated by a Notary Public, or any Court, Judge, Magistrate, British Consul or Vice-Consul, or representative of Her Majesty or of the Government of India :

Provided that the following persons shall not be required to attend at any registration-office or Court for the purpose of executing any such power-of-attorney as is mentioned in clauses (a) and (b) of this section, *namely* ;—

(i) persons who by reason of bodily infirmity are unable without risk or serious inconvenience so to attend ;

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tration.**

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- (ii) persons who are in jail under civil or criminal process ; and
- (iii) persons exempt by law from personal appearance in Court.

(2) In the case of every such person the Registrar or Sub-Registrar or Magistrate (as the case may be), if satisfied that the power-of-attorney has been voluntarily executed by the person purporting to be the principal, may attest the same without requiring his personal attendance at the office or Court aforesaid.

(3) To obtain evidence as to the voluntary nature of the execution the Registrar or Sub Registrar or Magistrate may either himself go to the house of the person purporting to be the principal, or to the jail in which he is confined, and examine him, or issue a commission for his examination.

(4) Any power-of-attorney mentioned in this section may be proved by production of it without further proof, when it purports on the face of it to have been executed before and authenticated by the person or Court hereinbefore mentioned in that behalf.

The terms of sections 32 and 33 are imperative and proper presentation by an authorised agent is an indispensable foundation of the Registrar's jurisdiction. The acceptance of an unauthenticated power of attorney is not mere defect in procedure which can be cured by s. 87 or by the executant's consent to registration, 23 All, 233 followed *Ishri Persad v. Baijnath*, 28 All., 707.

If the authority of the agent to admit execution of a document is revoked before registration, but such revocation is not known to either the grantee of the document or the registering officer, the document is not invalidated although it is registered by the agent after the revocation of his authority *Mujib-un-nissa v. Abdur Rahim*, 23 All., 233 distinguished.—*Mohendra Nath Mukerjee v. Kali Pershad Johuri*, 30 Cal., 265 ; s c. 7 C. W. N., 229.

34. (1) Subject to the provisions contained in this Part and in sections 41, 43, 45, 69, 75, 77, 88 and 89, no document shall be registered under this Act unless the persons executing such document, or their representatives, assigns or agents authorized as aforesaid, appear before the registering officer within

Enquiry before [re-
gistration by regis-
tering officer.

the time allowed for presentation under sections 23, 24, 25 and 26 :

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Provided that if owing to urgent necessity or unavoidable accident all such persons do not so appear, the Registrar, in cases where the delay in appearing does not exceed four months, may direct that on payment of a fine not exceeding ten times the amount of the proper registration-fee, in addition to the fine, if any, payable under section 25, the document may be registered.

(2) Appearances under Sub-section (1) may be simultaneous or at different times.

(3) The registering officer shall thereupon :—

(a) enquire whether or not such document was executed by the persons by whom it purports to have been executed,

The provisions of Part VII are applicable to the case of an executant of a document, the registration of which is optional, and the refusal of such an executant to admit execution gives rise to a cause of action under s. 77 of the Act —*Chandra Kishore Munshi v. Dinendra Nath Sanyal*, 1 C. L. J., 126.

(b) satisfy himself as to the identity of the persons appearing before him and alleging that they have executed the document ; and

(c) in the case of any person appearing as a representative, assign or agent, satisfy himself of the right of such person so to appear.

(4) Any application for a direction under the proviso to Sub-section (1) may be lodged with a Sub-Registrar, who shall forthwith forward it to the Registrar to whom he is subordinate.

(5) Nothing in this section applies to copies of decrees or orders.

The decision in *Mukhum Lal Panday v. Kundoon Lal*, 15 B. L. R., 228 ; *Shama Charan Das v. Joymolah*, 1 L. R., 11 Cal., 750 and *Satcourie Pyne v. Luckey Narain Khettry*, 1 L. R., 15 Cal., 538, have been misunderstood as sanctioning the acceptance of a document by Sub-Registrars for admission of execution after the expiry of four months

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In the first case, Sir Barnes Peacock, referring to Act XX of 1866, says : " Though the statute makes it imperative to present an instrument for registration within four months from the date of its execution, no time is fixed within which a deed presented and accepted for registration must be registered, and indeed from the nature of the requirements of the Act the period within which registration must be completed could not have been fixed."

N.B.—S. 36, Act XX of 1866, specified no time within which the parties must appear to admit execution.

In the second case, it was ruled that, although s. 34 of the Registration Act of 1877 lays down that no document shall be registered unless the persons executing the same, their representatives, assigns, or agents, appear before the Sub-Registrar within the period allowed for presentation, yet this section is directly subject to s. 77, and that section nowhere provides any time within which the parties, their representatives, assigns or authorised agents shall appear to admit execution.

This obviously means that when a Sub-Registrar has refused to register under s. 34, and the Registrar has upheld the refusal on appeal, and a Civil suit has been brought, and a decree obtained for registration, then, provided the document is presented to the Registrar within 30 days of the decree, there is no limitation to the time for admission of execution. Sub-Registrars on first presentation and when acting under s. 34 have no concern whatever with these rulings.

In the third case, the deed was executed on the 18th of September 1886. It was presented for registration on the 12th January 1887 by the claimant who applied for a summons against the executant. He was unable to serve the summons, and on the 30th of August 1887 the Registrar refused registration on the ground that more than eight months had elapsed. On October 28th, 1887, the High Court having been closed from 22nd August to 27th October for the Vacation the plaintiff brought this suit. Trevelyan, J., said : " The only question argued before me is whether the Registrar must not be taken to have refused registration at some period within the eight months, and whether this suit is not consequently barred by limitation." After referring to the case of *Makhan Lal Panday v. Koondun Lal*, quoted above, and to Macpherson, J.'s decision in the matter of *Butto Behari Banerjee*, 11 B. L. R., 20, which he says is indistinguishable from the present case, he proceeds to say : " I do not agree with Mr. Justice Macpherson in considering that from the fact that there is a limitation as to the time within which executants can appear, it follows that the refusal to register must be taken to have been made within the same period. There being no express limitation, I do not see why limitation by implication should be imported into the Act. As the Privy Council said from the nature of the requirements of the Act, the period within which the registration must be completed could not have been fixed.

The history of this case and the judgment of Trevelyan, J., clearly show that this case also refers to the right of the parties to bring a Civil suit under s. 77 and to the limitation after decree under s. 77, as to which see cases under s. 77, *infra*.

The duties of Sub-Registrars under s. 34 are in no way affected there by.

There are three processes in registration :

1. Presentation.
2. Admission of execution.
3. Registration or completion.

The third process is a purely departmental one, and the only limitation involved in it is the limit fixed by the Inspector-General within which for the convenience of parties the processes of copying, certifying registration, and returning the documents must be completed. The departmental orders are that for the convenience of the public, completion is to be made as soon as possible after admission of execution, and in rural offices the time is not to exceed an average of two days.

There are two distinct points of law established by these rulings :

1. That the date on which the Registrar's order is given refusing registration shall be taken as the date from which the limitation for bringing a Civil suit may be considered to run, provided of course, that the Registrar's order cannot be considered to have been passed until the earliest date on which it legally could have been passed, that is immediately on the expiry of the eighth month in cases where summons have been issued, or whenever the appeal is decided from a Sub-Registrar's order of refusal on the expiry of four months.

2. That when a Civil Court has given a decree ordering registration, and the document is presented within 20 days of the decree, the limitation prescribed by s 34 does not apply.

The general proposition that there is no limitation in law to the time for completion of registration does not concern registering officers, who are bound to consult the public convenience and obey the positive instructions of the Inspector-General to complete registration as early as possible.

Where the registration of a document is decreed under s. 77 by a Court and the instrument is itself presented for registration within a month from the date of the decree, the limitation of four months is inapplicable.

4 M. C. R. 91 at p. 96. Where a Court declares previous registration invalid a registering officer may register a deed after four months.

24 W. R. 75. Presentation of insufficiently stamped deed is good presentation. See also I. L. R. 11 Cal. 750.

35. (1) (a) If all the persons executing the document appear personally before the registering officer and are personally known to him, or if he be otherwise satisfied that they are the persons they represent themselves to be, and if they all admit the execution of the document ; or,

Procedure on admission and denial of execution respectively.

(b) if in the case of any person appearing by a representative, assign or agent, such representative, assign or agent admits the execution ; or,

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stration.

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(c) if the person executing the document is dead, and his representative or assign appears before the registering officer, and admits the execution,

the registering officer shall register the document as directed in sections 58 to 61, inclusive.

(2) The registering officer may, in order to satisfy himself that the persons appearing before him are the persons they represent themselves to be, or for any other purpose contemplated by this Act, examine any one present in his office.

(3) (a) If any person by whom the document purports to be executed denies its execution, or

(b) if any such person appears* to the registering officer* to be a minor, an idiot, or a lunatic, or

(c) if any person by whom the document purports to be executed is dead, and his representative or assign denies its execution,

the registering officer shall refuse to register the document* as to the person so denying, appearing or dead* Provided that, where such officer is a Registrar, he shall follow the procedure prescribed in Part XII.

Execution of a document means the signing of the document of the executant's free will. Where the signature is obtained by duress or intimidation there is no execution. *Mutkudhari Lal v. Sheik Fuzal Hossein*, 6 W. R. Mis, 131 *Romanandan Chetty v. Vijiasamy*, 4 Mad., H. C. R. 425, and *In re Brindaban Chandra Shaw*, 1 B. L. R., O. C. 47 distinguished, as they leave entirely untouched the question of what amounts to execution. *Chandra Kishore Munshi v. Dinendranath Sanyal*, 1 C. L. J., 126.

The duty of a registering officer when the executant admits execution but objects to registration is apparent from the following ruling :—

The plaintiff having purchased at an execution-sale the right, title and interest of a tenant in an *istmrari jote*, obtained from the zeminder a *pottah* which he sought to register according to law. The zemindar appeared at the registration-office and admitted the execution of the *pottah*, but did not assent to its being registered, whereupon the registering officer withheld registration.

* These words were inserted by Act XII of 1879, s. 104.

Held, that it was the duty of the registering officer to register the *pollah*, notwithstanding the executant's refusal of assent.—*Magon Mallo v. Doola Gaze Khan*, 19 W. R., 198.

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When the executant of a deed admits his signature to the deed before the registering officer but denies its execution, *Held* that the registering officer can regard this as an admission of the execution, and has jurisdiction to register the deed; also that the Court cannot go behind the certificate in these circumstances. *Yule v. Ram Khelwan Sahai*, 6 C. W. N., 329.

But another view has been taken in *Razi-un-nissa v. Subir Husain*, 26 All., 57, where referring to *M. Ewas v. Birj Lal*, 1 All., 465 *Malkarjun v. Narhari*, 25 Bom., 337, and *Mujib-un-nissa's case* above (26, I. A. 15; 23, All, 233) it was held that where a subregistrar in disregard of the provisions of s. 35 registered a document as against a person denying execution thereof, his action was *ultra vires* and without jurisdiction.

A proposal was made at the time of the revision of the rules of the Department to add an eighth case for refusal of registration, *viz.*, when the parties desired to withdraw. This has actually been recorded over and over again by registering officers as a ground for refusal, but it is obviously inconsistent with the Act. All grounds for refusal must be included by implication, if not expressly, in s. 35, and the ruling quoted above clearly illustrates this principle. The fact that the parties have changed their minds after execution does not give them a right to immediate refusal. They need not appear for four months, and during that time the other side can take steps to compel registration.

It was laid down under Act XX of 1866, and the ruling holds equally good for Act III of 1877, that a registering officer had no power to refuse to register a deed, on the ground that the full consideration therein mentioned had not been paid. His duty is, when the parties appear in person before him, simply to ascertain whether the deed has been executed by the persons by whom it purports to have been executed.—*In the matter of the petition of Brindabun Chandra Shaw and Nobodeep Chandra Shaw*, 1 B. L. R., O. C., 47. But see, 1 C. L. J., 126.

The words of s. 35 of the Registration Act must be read distributively and construed to mean that the registering officer shall only refuse to register the document *quoad* the persons who deny the execution of the deed and *quoad* such persons as appear to be under any of the disabilities of minority, idiocy or lunacy mentioned in s. 35.—*Mukhun Lal Pandey v. Koondun Lall*, 15 B. L. R., 228, referred to and approved in *Muhammed Ewas v. Birj Lal*, 1. L. R., 1 All., 465. Confirmed by Privy Council, L. R., 4 I. A., 166.

The registration of a deed is not necessarily invalid by reason of a failure on the part of the registering officer to comply with the provisions of the Registration Act.—*Ibid*.

The object of s. 35 of the Registration Act, 1877, which directs the registering officer to refuse to register a document if the person by whom it purports to be executed appears to be a minor, is, that if the registration authorities refuse to register on that ground, the question of minority may at once be brought into a Civil Court and there determined.—*Chunee Mull Johury v. Brojomath Roy*

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Registration.

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Chowdhry, 1. L. R., 8 Cal., 967, followed in *Grish Chandra Chowdhry v. Abdus Salam*, 1. L. R., 14 Cal., 55. Registering officers should never record that an executant is a minor, but only that he "appears to be a minor."

On this point, See, *Sham Charan Mal v. Chowdhry Debya Singh Pakraj* (minor), 21, Cal., 872.

As the Registrar on appeal has only to decide whether his subordinate Sub-Registrar was justified in his refusal, the question of minority cannot be raised on appeal either. The Registrar can only send for the party and see for himself whether the Sub-Registrar was justified in saying that he appeared to be a minor. The actual question of minority is one exclusively for the Civil Courts.

It seems that the above rulings would equally apply to a case of disability from: apparent idiocy or lunacy.

As regards the effect of disobedience or wilful neglect to attend in answer to a summons for the purpose of admitting execution of a document, *vide* para. 146 Amalgamated Rules and Circular Orders.

For refusals under the Bengal Tenancy Act, see Revised Rules under that Act, *infra*.

The following are the recent rulings on the question of representatives ;

In *Kesho Deo v. Hari Dass*, 21 All., 281, it was held, overruling *Shanker Das v. Jagaraj Singh*, 5 All., 599, that a mortgage executed and registered by a major son and his father for himself and a minor son had no defect in registration.

In *Pakran v. Kunhammed*, 23 Mad., 580. The mother of three sons executed a deed of gift in favor of one and then died. The donee alone registered the document. It was contended that the deceased was not properly represented under s. 35. Held, that such error was a defect in procedure only and the registration was not rendered invalid by reason thereof.

This case was referred to in the leading Calcutta case on the subject, *Bhabatosh Banerjee v. Soleman*, 33 Cal., 584 ; 4 C. L. J., 340 ; 10 C. W. N., 717.

Where it was held that section 123 of the Transfer of Property Act is by virtue of section 4 of the Act to be read as supplemental to the Indian Registration Act and the expression "registered instrument" means an instrument registered in accordance with the provisions of the Indian Registration Act, not necessarily by the donor himself, but on the admission of his widow after his death, she being a person who would have been if she applied entitled to Letters of Administration to his estate, *prima facie* she would be his representative within the meaning of s. 35 even if she was the donee under the deed, and would be entitled to appear and admit the execution of the deed as such representative so as to render its registration valid and effectual, *Nand Kishore Lal v. Suraj Prasad*, 20 All., 392, approved of.

The same view was taken in *Meiyyalu Nadan v. Anjally*, 25 Mad., 672.

PART VII.

OF ENFORCING THE APPEARANCE OF EXECUTANTS AND
WITNESSES.PART VII.
The appearance of executants and witnesses.

Ss 36-38

36 If any person presenting any document for registration, or claiming under any document which is capable of being so presented, desires the appearance of any person whose presence or testimony is necessary for the registration of such document, the registering officer may, in his discretion, call upon such officer or Court as the Local Government directs in this behalf, to issue a summons requiring him to appear at the registration office, either in person or by duly authorised agent as in the summons may be mentioned, and at a time named therein.

Procedure where appearance of executant or witness is desired.

(1) **Value of deed not legally registered.**—Unless a deed is registered in accordance with the provisions of the Act, it must be regarded as unregistered though in fact, it may have been improperly admitted to registration 1 N. W. P. 247.

(2) **Registration of sale-deed in absence of vendors and agents.**—

(a) The registering officer is not authorised to register a deed in the absence of the vendors and their agents, merely because he is satisfied that there has been a sale pursuant to a previous agreement 1 N. W. P. 247D.

(b) The registration Act of 1866 contained powers for compelling the attendance before the Registrar, of persons whose presence was necessary for the due registration of deeds; but there was no provision enabling registering officers to proceed of their own authority to register, in the absence of such persons (*Ibid*).

(3) **Deliberate omission by the executant to appear—procedure.**—Where the executant deliberately does not appear to admit execution, the Civil Court should not pass an order for registration but steps, under this section, to enforce his appearance should be taken 16, 341, 3 M. L. J., 215; followed in 6 M. L. J., 263; see also 18 M. 255.

37. The officer or Court, upon receipt of the peon's fee payable in such cases, shall issue the summons accordingly, and cause it to be served upon the person whose appearance is so required.

Officer or Court to issue and cause service of summons.

38. (1) (a) A person who by reason of bodily infirmity is unable without risk or serious inconvenience to appear at the registration-office, or

Persons exempt from appearance at registration-office.

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(b) a person in jail under civil or criminal process, or
(c) persons exempt by law from personal appearance in Court, and who would but for the provision next hereinafter contained be required to appear in person at the registration-office,

shall not be required so to appear.

(2) In the case of every such person the registering officer shall either himself go to the house of such person, or to the jail in which he is confined, and examine him, or issue a commission for his examination.

If the person to be examined under this section is unable to move without risk to life or is confined in jail, Rs. 5 only, or half the ordinary commission fee, is charged. The same rule applies to s. 33, *supra*, but not to s. 31.

Section 132 Act v of 1908 of the Court of Civil Procedure gives the persons who are exempt by law from personal appearance in Court. They are *pardanishin* women and persons of rank who have been exempted by the Local Government.

39. The law in force for the time being as to summonses, commissions and compelling the attendance of witnesses, and for their remuneration in suits before Civil Courts, shall, save as aforesaid and *mutatis mutandis*, apply to any summons or commission issued, and any person summoned to appear under the provisions of this Act.

Law as to summonses,
commission and wit-
nesses.

The registering officer should exercise discretion as to the necessity of issuing processes, warrant, and other means for compelling attendance.—4M. H. R. 91.

PART VIII.

OF PRESENTING WILLS AND AUTHORITIES TO ADOPT.

40. (1) The testator, or after his death any person claiming as executor or otherwise under a will, may present it to any Registrar or Sub-Registrar for registration.

Persons entitled to
present wills and
authorities to adopt.

(2) The donor, or after his death the donee, of any authority to adopt, or the adoptive son, may present it to any Registrar or Sub-Registrar for registration.

41. (1) A Will or an authority to adopt, presented for registration by the testator or donor, may be registered in the same manner as any other document.

Registration of wills and authorities to adopt

Part 1, Deposited wills. Sec. 41, 42.

(2) A will or authority to adopt, presented for registration by any other person entitled to present it, shall be registered if the registering officer is satisfied

(a) that the will or authority was executed by the testator or donor, as the case may be ;

(b) that the testator or donor is dead ; and

(c) that the person presenting the will or authority is, under section 40, entitled to present the same.

Where a will was registered but the *bond fides* of the transaction was challenged and for that purpose evidence of the general reputation of person now dead, who identified the executant at the registration office was given, Held that such evidence was inadmissible.—*Gangamoyi Debi v. Troitukhya Nath Chowdhry*, 10 C. W. N., 522.

The procedure prescribed by s. 35 is not applicable to the registration of wills which under s. 40 are presented after the death of the testator by persons claiming under them. Therefore no enquiry can be made as to the testator's minority or sanity etc. It would not be reasonable to hold that the special rules (a), (b), and (c) of section 41 are merely supplemental to the rules in section 35, because at least in one instance the same rule in substance appears in both sections.—*Arumugam Pillai v. Arunachallam Pillai*, 1. L. R. 20 Mad. 254.

A Sub-Registrar acting under this section is a Court within the meaning of s. 195 Cr. P. Code I. L. R. 10 Mad. 154.

PART IX.

OF THE DEPOSIT OF WILLS.

42. Any testator may, either personally or by duly authorized agent, deposit with any Registrar his will in a sealed cover superscribed with the name of the testator and that of his agent (if any) and with a statement of the nature of the document.

Deposit of wills.

43. (1) On receiving such cover, the Registrar, if satisfied that the person presenting the same for deposit is the testator or his agent, shall transcribe in his register-book

Procedure on deposit of wills.

Part II.
Deposit of
wills.

Sec. 42-43

No. 5 the superscription aforesaid, and shall note in the same book and on the said cover the year, month, day and hour of such presentation and receipt, and the names of any persons who may testify to the identity of the testator or his agent, and any legible inscription which may be on the seal of the cover.

(2) The Registrar shall then place and retain the sealed cover in his fire-proof box.

44. If the testator who has deposited such cover wishes to withdraw it, he may apply either personally or by duly authorised agent to the Registrar who holds it in deposit, and such Registrar, if satisfied that the applicant is actually the testator or his agent, shall deliver the cover accordingly.

Withdrawal of sealed cover deposited under section 42.

45. (1) If, on the death of a testator who has deposited a sealed cover under section 42, application be made to the Registrar who holds it in deposit to open the same, and if the Registrar is satisfied that the testator is dead, he shall, in the applicant's presence, open the cover, and, at the applicant's expense, cause the contents thereof to be copied into his Book No. 3.

Proceedings on death of depositor.

(2) When such copy has been made, the Registrar shall redeposit the original will.

46. (1) Nothing hereinbefore contained shall affect the provisions of section 259, of the Indian Succession Act, 1865 or of Sec. 81 of the Probate and Administration Act 1881 or the power of any Court by order to compel the production of any will. (2) when any such order is made, the Registrar shall, unless the will has been already

Saving of certain enactments and powers of Courts.

copied under section 45, open the cover and cause the will to be copied into his Book No. 3 and make a note on such copy that the original has been removed into Court in pursuance of the order aforesaid.

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S. 47.

It would appear, as stated by Mr. Bignold in his note to the corresponding section of Act VIII of 1871, that it is not necessary for the applicant under s. 45 to be a claimant or executor under the will.

The Registrar should not part with the will otherwise than by order of the Court after the death of the depositor.—*In the goods of Nagindus* (deceased) 3 Bom., O. C., 135.

Section 259 of the Indian Succession Act is as follows :—“Every District Judge shall file and preserve all original wills, of which probate or letters of administration with the will annexed may be granted by him, among the records of his Court, until some public registry for wills is established; and the Local Government shall make regulations for the preservation and inspection of the wills so filed as aforesaid.”

On the establishment of public offices for the deposit of wills under this chapter, s. 259 would have ceased, *ipso facto*, to have any force but for this saving section.

In the opinion of the Advocate-General, dated 24th August 1867, a District Judge after admitting a will to probate, must keep it among the records of his Court whether it has been registered or not. Registrars should, therefore, make a point of finding out whether the testator is dead when a will is called for by a Civil Court, as in that case the contents must be copied in Book 3 before the will is sent to Court.

PART X.

OF THE EFFECTS OF REGISTRATION AND NON-REGISTRATION.

47. A registered document shall operate from the time from which it would have commenced to operate if no registration thereof had been required or made, and not from the *date* of its registration.

Time from which registered document operates.

Under section 47 a registered mortgage bond begins to operate from the date of registration and is not affected by the decree subsequently obtained on earlier mortgages. *Jethabai Dayalji v. Gridhar* 20 Bom., 158.

So in *Narayan Luxman* 29 Bom., 42 where plaintiff took a lease on 11. 8. 98 and got it registered on 10. 12. 98 while defendant 2 took a lease on 12.

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stration and Non-
Registration.

S. 48.

11. 98 and had it registered the next day and further obtained possession under a mortgage of the same property on the 9. 12. 98. Held, that the plaintiff was entitled to recover possession, for though his deed was registered after defendant's deeds yet the moment it was registered it had operation from the date of its execution by virtue of s. 47. Defendant No. 2's possession was immaterial. *Kali Das Mullik v. Kanhaya Lal Pundit* L. R. 11. I. A. 218, and *Bai Suraj v. Dalpatram Dayasoanker*, 6. Bom., 380, followed and applied. See also, *Motichand v. Sagun*, p. 46 of the same Vol.

All things done before a Registrar in his official capacity and verified by his signature will be presumed to be done duly and in order. *Gangamoyi Debi v. Troilukhyanath Chowdhry*, 10. C. W. N. 522.

An unregistered document in respect of which forgery has been committed, although it may not be a valuable security until registration is effected, is nevertheless one which purports to be a valuable security within the meaning of section 467, *I. P. C. Q. E. v. Ramasami*, 12, Mad., 148, referred to; 2 East's Pleas 955, approved in principle. *Kasi Nath Naik v. The Queen-Empress*, 1 C. W. N. 681.

The burden of proof that deeds duly executed and registered were not real transactions lies on the party alleging the same, *P. C. Sham Chand Pal v. Pratab Chand Pal*, 1 C. W. N., 594.

48. All non-testamentary documents duly registered

Registered documents
 relating to property
 when to take effect
 against oral agreements.

under this Act, and relating to any property whether moveable or immovable, shall take effect against any oral agreement or declaration relating to such property, unless where the agreement or declaration has been accompanied or followed by delivery of possession.

Registration cannot confer validity upon an instrument which is *ultra vires* or illegal or fraudulent. The reason for the exception made by s. 48 of the Registration Act in favor of an oral agreement accompanied by possession, is that by such possession the parties who rely on a subsequent registered deed had, or might, if they had been reasonably vigilant, have had, previously to their entering into their contract with the vendor and to their taking a conveyance, notice, by the fact of such possession, that there was some prior claim to the property. *Waman Ramchandra v. Dhondiba Krishnaji*, 1. L. R. 4 Bom., 126.

In *Ganga Narain Gope v. Kalicharan Goala*, 22 Cal., 179. Trevelyan J. held that it is not necessary that there should be any formal making over of possession. Hill J. dissenting, held that the effect to be attributed to delivery of possession depends on the intentions of the parties, which is a question of fact that cannot be determined in second appeal.

It does not appear that there was any registered deed to come into competition in this case, and this is the only reported case on the effect of delivery

of possession *per se* that I have been able to find. It is clear that since the passing of the Transfer of Property Act such cases must be exceedingly rare since the law as laid down by Garth, C. J., in *Narain Chunder Chuckerbutty v. Dattaram Roy*, I. L. R., 8 Cal., 612, is that a registered transfer without delivery of possession will pass any interest in land, whether in possession or otherwise and when the value of the interest amounts to Rs. 100, there is no other means of transferring it.

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There is one case which might fall under this section, namely, the question of transfer of immovable property of under Rs. 100 in value, by registered deed as against the transfer of the same property to another person by delivery of possession. It would then seem that under this section the latter would have priority of title. But the dictum of Garth, C. J., quoted above, would seem to be against this, and the point was not raised in the Full Bench ruling in *Makhan Lal Pal v. Banku Behari Ghose*, I. L. R., 19 Cal., 623 by which the rest of Garth, C. J.'s remarks were apparently approved. *Vide supra*.

As regards a registering officer's duty in the case of the presentation of unlawful or immoral documents, *vide* para 71 of the instructions and orders *infra*. Of two unregistered mortgages the earlier has priority notwithstanding that there has been a sale under the later and that the sale certificate has been registered. *Maganlal v. Shakra Girdhar*, 22 Bom., 945. On the question of priority generally, See notes to s. 50 *infra*.

As regards fraud & neglect s. 78 of the Transfer of Property Act must be carefully studied that section runs as follows :—"Where through the fraud, misrepresentation, or gross neglect of a prior mortgagee, another person has been induced to advance money on the security of the mortgaged property the prior mortgagee shall be postponed to the subsequent mortgagee."

In a suit for the declaration of the priorities of mortgages and for foreclosure it appeared that the mortgaged premises had been purchased by the mortgagor from the second defendant and others in 1878, under a conveyance containing a covenant that they were free from incumbrances, and the mortgagor then received, *inter alia*, a Collector's certificate, which was recited in another title-deed also handed over to her. The premises were mortgaged to defendant No. 2, who was an experienced sowcar in 1879 and to the plaintiff Company in 1883 and again in 1884, and were conveyed absolutely by the mortgagor to defendant No. 2 in 1886. The mortgagor executed a rent agreement to the plaintiff Company on the occasion of each of the mortgages of 1883 and 1884. The above mortgages were registered, but the plaintiff Company and defendant No. 2 had no notice, at the respective dates of their mortgages and conveyance, of any previous incumbrance. The plaintiff Company received the title-deeds of the estate from the mortgagor (but not the Collector's certificate) on the execution of the mortgage of 1883; the second defendant alleged that he had held them under a prior incumbrance which was consolidated in the mortgage of 1879, and that before the execution of that mortgage the mortgagor had obtained them from him for the purpose of obtaining a Collector's certificate and had told him that the Collector

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tration and Non-
Registration.

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had retained them, in order to account for their not being replaced in his custody. Held (1) that the plaintiff Company were not affected with constructive notice of the mortgage of the second defendant by reason of its registration or of their failure to search the registry or to inquire after the Collector's certificate; (2) that the second defendant not having given a reasonable explanation of his conduct in leaving the title-deeds with the mortgagor four years after his mortgage lost his priority by reason of his gross neglect under Transfer of Property Act, s. 78, apart from the circumstances raising a suspicion of fraud on his part—*Shan Maun Mull v. Madras Building Company*. 1. L. R., 15 Mad., 268.

In *R. Joshua v. The Alliance Bank of Simla*, 22 Cal., 185 it was held, that the doctrine laid down in *Lachmam Das v. Dasrat* 6 Bom., 168 Q. V. had no application. Having regard to section 53 of the Transfer of Property Act that doctrine if applicable can only apply for the purpose either of rebutting the presumption of fraud, or of preventing the presumption of fraud from arising.

In *Monindra Chandra Nandy v. Troyluckho Nath Burat*, 2 C. W. N., 750 it was held that the fact that there is in this county a universal system of registration is one of the circumstances to be taken into consideration in determining the question of gross negligence. Semble, that the question whether registration is notice or not, is a question of fact, and as each case arises it should be determined whether the omission to search the register together with the other facts amounts to such a gross negligence as to attract the consequence which results from notice.

In *Anna Mal v. The Collector of Bareilly*, 28 All., 315 where there was an agreement among successful plaintiffs to give a relative who had helped them a share of the estate and his name was entered in the village paper as cosharer and he was put in possession, but no conveyance was executed: subsequently one of the donors purported to sell the share so assigned to a person who had notice of the terms upon which it was held by the donee, Held, that this sale even though carried out by registered instrument was ineffectual against the original donee, as the vendee knew that the vendor could not convey without committing a fraud on the donee. *Benham v. Keane*, 1. J. and H. 685, at 702 *Greaves v. Tofield*, L. R. 14 Ch. Div., 563, and *Le Neve v. Le Neve*, 3 Atk., 346 referred to.

Wilful neglect by a mortgagor to get a mortgage registered does not amount to gross negligence in the mortgagee failing to obtain the title deeds under section 78 Transfer of Property Act, and his mortgage was not postponed to another mortgage executed and registered a month later.

Rangasami Naiken v. Annamalai Mudali, 31 Mad., 7. The deposit of mortgage deeds as security for debt creates a good equitable mortgage in Calcutta and the mortgage is concluded on the day of deposit and does not require registration. A deposit of title deeds of certain property, under verbal arrangement to secure payment of a debt is not an oral agreement or declaration relating to such property within the meaning of section 48. *Cogan v. Pogose*, 11 Cal., 158 referred to and followed. Further there is no such distinction as in England between legal equitable estates and if the claim of the

subsequent legal mortgagee can be sustained it can only be sustained under section 48. *West v. Macpherson* 31 Cal., 57 at p 72 referred to *Gokkul Das v. The Eastern Mortgage & Agency Co.*, 33 Cal., 410; S. C. 4 C. L. J., 102.

49. No document required by section 17 to be registered, shall

Effect of non-regis-
tration of documents
required to be regis-
tered.

(a) affect any immoveable property comprised therein, or

(b) confer any power to adopt, or

(c) be received as evidence of transaction affecting such property or conferring such power, unless it has been registered

As to what constitutes registration, vide *infra*, s. 60.

There is no provision in the law excluding a deed made before the Registration Act came into force, and registered within the time appointed for the registration of such deeds, from being adduced in evidence.—*Ram Sarun Das v. Ram Chand*, 1 Agra, 283.

An unregistered document requiring registration as affecting an interest in land is admissible in evidence for any purpose for which registration is unnecessary.—*Lakhmipat Singh Dugar v. Khairat Ali*, 5 B. L. R., F. B., 18; *Sham Narain Lal v. Khemajit Maloe*, 4 B. L. R., F. B., 1; *Monomothonath Day v. Sreenath Ghosh*, 20 W. R., 107.

Mugmira v. Gurmukh Roy, 26 Cal., 334.

Dinanath Das v. Motimala Dossya, 11 C. W. N., 342.

But Quaere as to an authority to adopt see I. L. R., 27 Mad., 30.

These rulings lay down the principle on which all deeds which come under this section are admissible in evidence. A complete list of rulings under this section will be found in the Table of Cases prefixed to this volume.

That this principle cannot be used to admit all unregistered instruments as collateral evidence is shown in the following rulings :—

A document which gives or purports to give a right to have immoveable property brought to sale with a view to the recovery, out of its proceeds, of money lent (principle and interest) is an instrument which creates an interest in immoveable property, and as such cannot, under s. 49 of the Registration Act, be received in evidence without being registered—*Kala Chand Mandul v. Gopal Chander Bhattacharjee*, 12 W. R., 16. 3.

A sued in the Small Cause Court on the covenant of a mortgage-deed for a money-decree. The deed being unregistered was held inadmissible in evidence. Held, on reference to the High Court, that the unregistered mortgage-deed, being in its terms indivisible and disclosing one transaction only which it would be imperative on the plaintiff to prove for the purpose of making out his case, was, under s. 49 of Act VIII of 1871, inadmissible in evidence to

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tration and Non-
Registration.

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proue a fact for which registration was unnecessary—*Matongeny Dosse v. Ramnarain Sadukhan*, 1. L. R., 4 Cal., 83.

When a transaction is indivisible, and the registration of the document evidencing it is by law compulsory, the document will not be admitted in evidence if not duly registered—*Kristo Lal Ghose v. Bonomalee Roy*, 1. L. R., 5 Cal., 611.

By an unregistered document *A* stipulated that *B* should enjoy certain land for a term of years in order that a debt and interest might be liquidated by receipt of profits, estimated at a fixed sum, and it was provided that if *B*'s possession was disturbed in the meantime, *A* should pay the balance of the principal then due and interest from the date of the loan. *B*, having been ejected sued *A* upon the covenant to pay. Held that as the covenant to pay depended on the principal contract, which could not be proved for want of registration, *B* could not recover.—*Vankatramapa v. Papi*, 1. L. R., 8. Mad., 182.

In *Venkaji Babaji Naik v. Shidramapa Balapa Desai* 19 Bom., 663 it was held that the terms of an unregistered mortgage bond cannot be looked at to save limitation of the personal claim by proof of payment of interest within three years, but in *Fatesingji Dipsingji v. Bamanji Ardesair Dalal*, 17 Bom., 515, Batty J. held that an unregistered lease though inadmissible under section 49 for the purpose of evidence of delivery of possession may yet be looked at merely as containing a clear statement of the adverse possession which was set up, by a person whose claims were admittedly limited to the rights enumerated in such document.

Where a Registrar refused to register a deed under Act XX of 1866 held that a suit on the deed would not lie, nor could parol evidence of the contract be given. The aggrieved party ought to have brought a suit to compel registration.—*Rahmotula v. Sariatulla Kagchi*, 1. B. L. R., F. B., 58.

So, too, in a case where it is made to appear that the cause of suit arisen upon a document which by law requires registration, but has not in fact been registered, the plaintiff cannot be permitted to establish a claim independently of the document, the existence of which is shown—*Rampershad v. Mewa Koor*, 2 N. W., 12; *Moona v. Jay Mungul Singh*, 4 N. W., 164; *Kaboolum v. Shumsheir Ali*, 11 W. R., 16.

Unless it is apparent that such document is not the foundation of his suit.—*Sarwantee v. Seva Ram*, 2 N. W., 35.

In the *Rajah of Ventagiri v. Narayana Reddi*, 17 Mad., 456, it was held that an unregistered cabuliati was admissible in evidence to prove the contract in a suit for damages for breach of contract to execute a lease.

On the other hand mere registration of a deed of sale unaccompanied by delivery of the deed to the vendee does not make the transaction a completed one, nor should it be taken as conclusive that the title passed. If it was intended by the parties that the title should pass only on the consideration money being paid such intention should be given effect to. *Mauladan v. Raghunandan Pershad Singh*, 27 Cal., 7. (*Sheonarain Singh v. Darbari Mahton*, 2 C. W. N., 207. Approved).

Admissions made by defendant were evidence against the plaintiff as one from whom plaintiff derived his title, but the provisions of the Registration Act

precluded any effect being given to a sale evidenced by such admissions: there being a writing the sale could not be proved by mere oral evidence. By Innes, J., the term "instrument" in s. 49, Act XX of 1866, is used on the understanding that the writing is not merely evidence of the transaction, but is the transaction itself.—*Somu Gurukhal v. Rangammal*, 7 Mad., 13.

As regards leases, where a lease is required by law to be registered, an unregistered lease could not be received as evidence even of the tenant's personal liability thereunder.—*Martin v. Sheoram Lal*, I. L. R., 4 All., 232.

See also *Gurunath Shrinivash v. Chenbasappa*, 18 Bom., 175; where the above ruling and that in *Raju v. Krishnarav*, 2 Bom., 273 at 281 are referred to.

The plaintiff sued the defendant to recover rent due upon a *muchilka* executed by the defendant. The defendant admitted that he occupied the land under the express contract contained in the *muchilka*. The *muchilka* was a document, the registration of which was compulsory under the Registration Acts, but was not registered. Held that the plaintiff could not establish his case without putting the *muchilka* in evidence, and it was inadmissible, not having been registered.—*Morris v. Sapamtheetha Pillay*, 6 Mad., 45.

If a contract of lease is, for want of registration, ineffectual, the landlord is not debarred from giving other evidence of a tenancy and requiring the Court to adjudicate on his right to eject. Dictum in *Nangali v. Raman*, I. L. R., 7 Mad., 226, observed upon.—*Venkatagiri v. Raghava*, I. L. R., 9 Mad., 142.

The fact of a prior deed not having affected the property being unregistered, is no reason why a subsequent registered deed making the same assignment should not be admitted as evidence of title.—*Mitchell v. Mathura Das*, I. L. R., 8 All., 6. Confirmed by Privy Council, L. R., 12 I. A., 150.

Where an instrument, the registration of which was rendered compulsory by s. 17, Act XX of 1866, was destroyed accidentally by fire soon after its execution and before registration, held in a suit to compel the defendant to execute another instrument to the same effect as that which had been destroyed that secondary evidence of the contents of the unregistered instrument was admissible.—*Nynakka Routhen v. Vevana Mahomed Naina Routhen*, 5 Mad., 123.

Finally, it was ruled in *Lala Gopee Chand v. Liakut Hossein*, 25 W. R., 211, that an unregistered document when followed by delivery of possession may be used as evidence of that possession.

This ruling appears to have been followed in *Khatu Bibi v. Madhuran Barsick* and *Topa Bibi v. Ashanulla Sirdar*, referred to and this point at least does not appear to have been overruled by the Full Bench ruling in *Makhan Lal Pal v. Banku Behari Ghose*, I. L. R., 19 Cal., 623, nor is it affected by the remarks of Garth, C. J., in *Narain Chunder Chuckerbutty v. Dataram Roy*, I. L. R. 8 Cal., 612, as far as property of under Rs. 100 in value is concerned. But the Transfer of Property Act renders it invalid in the case of immoveable property of the value of Rs. 100 and upwards, *vide* note to s. 17, *supra*.

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Certain registered documents relating to land, to take effect against unregistered documents.

50. (1) Every document of the kinds mentioned in clauses (a), (b), (c) and (d) of section 17, Sub-Sec. 1, and clauses (a) and (b) of section 18, shall, if duly registered, take effect

as regards the property comprised therein, against every unregistered document relating to the same property, and not being a decree or order, whether such unregistered document be of the same nature as the registered document or not.

(2) *Nothing in sub-section 1, applies to leases exempted under the proviso to sub-section 1 of section 17, or to any document mentioned in sub-section 2 of the same section, or to any un-registered document which had no priority under the law in force at the commencement of this Act.

Explanation.—In cases where Act No. XVI of 1864 † or the Indian Registration Act 1866 ‡ was in force in the place and at the time in and at which such unregistered document was executed, “unregistered” means not registered according to such Act, and, where the document is executed after the first day of July 1871, not registered under the Indian Registration Act 1871 § or the Indian Registration Act 1871 or the Indian Registration Act 1877 or this Act. (s. 50).

The decisions under this section were, as remarked by Mr. H. T. Rivaz in his valuable notes to Act III of 1877, hopelessly conflicting, but the more recent cases, which will be found digested at the end of the notes to this section have cleared up most of the points in dispute, as far as the Calcutta High Court is concerned.

The section includes those deeds the registration of which was compulsory by s. 17 of Act III of 1877, and also those the registration of which has been made compulsory by the Transfer of Property Act unless transfer is made by actual delivery of possession.

Under the old Acts the following decisions may be noted :—1871, s. 50; 1866, s. 50; 1864, s. 68; 1843, s. 2. The purchaser under a decree for sale in satisfaction of a registered mortgage is entitled in priority to the purchaser

* This paragraph is printed as amended by Act VII of 1886, s. 5 (printed, General Acts, 1885—88, Ed. 1889, p. 63), and Act VII of 1888, s. 65 (2) (*ib.*, p. 239). The paragraph is to be construed as if the letter (c) had been inserted by Act XII of 1870—see Act VII of 1888, s. 65 (3) (*ib.*, p. 239).

† Act XVI of 1864 was repealed by Act XX of 1866.

‡ Act XX of 1866 was repealed by Act VIII of 1871.

§ Act VIII of 1871 was repealed by s. 2 of this Act.

under another decree for sale in satisfaction of another unregistered mortgage, although the latter mortgage be of an earlier date.—*Prahlad Misser v. Udit Narain Singh*, 1 B. L. R., A. C., 197. Under Act XIX of 1843, a registered deed was entitled to priority over any unregistered deed of an earlier date.—*Maleshappa bin Karvirappa v. Bassappa bin Ningappa Shetrunekar*, 1 Bom., 10, yet in *Maheshwar Buksh Singh v. Bhikhu Chowdhry*, B. L. R., Sup. Vol., 403, a deed of sale was held to have no priority over a mortgage unregistered, nor over another deed of sale where the case is not one of two rival purchasers from the same person.—*Umbika Churn Kundoo v. Dhurmo Doss Kundoo*, 11 W. R., 129.

In *Krishnasami Pillai v. Venkatachella Aiyar*, 3 Mad., 89, the Court went so far as to lay down that a registered deed of sale, though subsequent in date, invalidates as against the registered purchaser, a prior deed of sale unregistered, notwithstanding that notice of the prior deed be alleged. This was under s. 2, Act XIX of 1843.

Again, it was held that the preference given under Act XIX of 1843, to the latter of two deeds of sale of immoveable property, when registered, over the earlier unregistered deed, was not confined to cases in which the first deed had been carried into effect, as every duly registered deed of sale, if authentic, invalidates any other deed of sale which may not have been registered.—*Parabhaudas Hirachand v. Dhondur*, 2 Bom., 233.

Yet Act XIX of 1843 did not give a registered *kobala* priority over a prior unregistered mortgage under which enjoyment had actually taken place.—*Furzund Ali v. Abdool Rahim*, 4 W. R., 30.

The cases of *Balaram Nemchand v. Appu Valad Dulu*, 9 Bom., H. C. R., 121, and *Butoolun v. Oseerun*, 8 W. R., 300, imported the equitable doctrine into these cases, that in order to make an unregistered document preferable to a registered one subsequently given, it was necessary to show that the vendor not only sold and parted with his rights in the property, but actually made over possession to the claimant.

The former ruling as explained in *Sambhubhai v. Shivaldas* 4 Bom., 89 at p. 92, has been distinguished in *Trikam Madhav Shet v. Hirji Harjivan Shet*, 18 Bom., 332, where it was held that the plaintiff's mortgage of 8th June 1863 registered on 15th Sep. 1864 was entitled to priority over the unregistered mortgage of 9th May 1864 although the latter was without notice of the earlier mortgage and was accompanied with possession. The case was governed by sect. 6 Regulation IX of 1827 and sect. 2 Act XIX of 1843. The rule of Hindu Law that a mortgage unaccompanied with possession is invalid makes no difference. *Sundar v. Gopal*, 4 Bom., H. C., Rep. A. C. J., 68; followed. *Lallubhai v. Bai Imrit* 2 Bom., 299, as qualified by the Privy Council decision in *Kali Das Mullick v. Kankya Lal Punjait*, L. R., 11 I. A., 218, referred to.

Under s. 68, Act XVI of 1864, registered deeds were entitled to preference over unregistered deeds, even of that class the registration of which is optional; the practical distinction between the two classes being, that deeds, the registration of which is compulsory, if unregistered, will not be received in evidence at all; whereas deeds the registration of which is optional will be received in

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evidence, notwithstanding the absence of registration, though they must give way to registered documents of subsequent dates relating to the same property.—*Munsoor Ali v. Azmut Ali*, 9 W. R., 282.

A genuine deed of sale given by the owner of an estate at a time when registration was not compulsory, cannot be invalidated by a subsequent deed given by that owner's heir and successor, the registration of which was compulsory by Act XX of 1866 merely on the ground that the last deed was registered, and the first not.—*Imrit Singh v. Koylasheo Koer*, 11 W. R., 558.

This appears to be the equitable ground on which the subsequent course of the law has been based, although there were many decisions *per contra*.

The general rule established under the older Act appears to have been that, as between two innocent purchasers a registered deed, even though subsequently executed, would always have priority, but if the subsequent purchaser had notice of *bona fide* possession under a document, the registration of which was not compulsory, and if he was in law fraudulently a purchaser under a registered deed he was not entitled to possession.

Under the present Act, it has been held that documents registered after Act III of 1877 came into force, have effect against all unregistered documents, even though their registration was optional under Act VIII of 1871 and Act XVI of 1864. Documents, however, which were registered under previous Acts had effect against those registered under Act III of 1877.—*Tirumala v. Lakshmi*, I. L. R., 2 Mad., 147 laid down that s. 50 of Act III of 1877 does not operate so as to exclude on the ground of their non-registration instruments executed before Act XVI of 1864 came into operation.

This decision has been given still wider effect by *Shivram v. Saya*, I. L. R. 13 Bom., 229, by which it has been held that s. 50, Act III of 1877, has no retrospective effect. The words "duly registered" under that section mean duly registered under that Act, and not under any prior Act. The section has no application to cases where the contest is between an unregistered instrument whenever executed and a registered instrument executed before the Act came into force. It applies only to cases where the registered instrument is subsequent to the Act.

Cases of Notice.

In *Janki Prasad v. Kishen Dut*, 16 All., 478, it was held that Registration is equivalent to notice to a prior mortgagee of a subsequent encumbrance.

In *Dhondo Balkrishna v. Raoji Dadu*, 20 Bom., 290, where a mortgagee under a registered mortgage sold the mortgaged property in execution of a money decree without announcing the mortgage in the sale proclamation, it was held that except in the case of a fraudulent concealment, the registration of the mortgage was notice to subsequent purchasers. The property therefore was liable under the mortgage and the auction purchaser was bound by it.

Lakshman Das v. Dasrat, F. B., 6 Bom., 168, referred to, and the rule in Bengal as laid down in *Dullab v. Krishna*, 3 B. L. R., 407, A. C. J., ignored.

In *Chunilal v. Ramchandra*, 22 Bom., 213, it was held that though the register is notice of registered documents, it is not notice of unregistered documents under which holders of registered documents derive title.

In *Dina v. Nathu*, 26 Bom., 538, it was held that registration of a sale or mortgage is itself notice to subsequent purchasers or mortgagees. This doctrine is as applicable since the introduction of the Transfer of Property Act as it was before.

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In *Kondiba bin Babaji v. Nana Shidrao*, 27 Bom., 408, it was held that possession, in certain cases, for the purposes of notice, has the same effect as registration.

In *Shaffudin valad Tajudin v. Govind Bhikaji Bade*, 27 Bom., 452, it was held that registration is at most constructive notice, and the doctrine of constructive notice cannot be so extended as to cover unregistered documents under which the holders of registered documents derive title. Possession amounts to notice of such title as the person in possession may have, and any other person who takes a mortgage or other charge upon, or purchases, immovable property, without ascertaining the nature of the claim of the person in possession does so at his own risk. The general consensus of opinion of all the High Courts in India is that possession is at least very cogent evidence of notice which a purchaser cannot with safety disregard, and that s. 50 of the Registration Act does not do away with the effect of notice in favour of the registration to which, *caeteris paribus*, it gives preference.

In *Sahadev v. Shekh Papa Miya*, 29 Bom., 199, it was held that when a mortgagor makes a payment to the mortgagee in good faith without knowledge of a registered submortgage the payment is not vitiated on the ground that it was made subsequent to the registration of the submortgage. Registration is notice for some purposes but it cannot be treated as notice for the purpose of vitiating such payment. *Williams v. Sorrell*, (1799), 4, Vesey, 389, referred to.

In *Bhikhi Rai v. Udit Narain Singh*, 25 All., 366; it was held that, if a person about to take a mortgage which must be made by registered deed, finds some other person than the intending mortgagor in possession, the fact of such possession is sufficient to put the would-be mortgagee on enquiry as to the title of such person; and, if such person's title is that of a prior mortgagee under a document not compulsorily registrable, the second mortgagee cannot by getting his mortgage registered, obtain priority over the first. *Barnhart v. Greenshields*. (1853) 9 Moore, P. C. 18; *Gunomoni Nath v. Bussunt Kumari Dasi*, 16 Cal., 414; *Krishnamma v. Suranna*, 16 Mad., 148; and *Diwan Singh v. Jadho Singh*, 20 All., 252, referred to.

In *Nandkishore v. Anwar Husain*, 30 All., 82, it was held that a registered lease by which rent is paid in advance to a lessor is notice to an auction purchaser at an execution sale sufficient to bar him recovering rent due after his purchase which had already been paid to the lessor under the terms of the lease.

In *Chinappa Reddi v. Manickavasagam Chetti*, 25 Mad., 1, it was held that to check fraud priority is not given by the Courts in cases to which s. 50 applies, to the holder of a later registered mortgage if he, at the time when he obtained his mortgage had notice of an earlier one. But the onus lies on the party alleging such knowledge or notice to aver it in his pleadings and to prove it.

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It will be seen that the view taken by the Calcutta High Court differs from that of the other High Courts on this point, with the exception of Madras.

In *Inderduwan Pershad v. Gobind Lal Chowdhry*, 23 Cal., 790. Trevelyan and Beverley, JJ., held that mere registration is not notice within the meaning of section 81 of the transfer of property Act. *Shanman Mull v. Madras Building Co.*, 15 Mad., 268, approved; *Lakshman Das v. Surupchand*, 6 Bom., 168, dissented from.

In *Preonath Chattopadhyaya v. Ashutosh Ghose*, 4 C. W. N., Banerjee and Stevens, JJ., held that registration of an ikrarnama is not constructive notice to the purchaser within the meaning of section 27 of the Specific Relief Act. A comprehensive definition of notice is to be found in section 3 of the Transfer of Property Act. The case in 23, Calcutta above cited was approved and the English Law as laid down in, *Le Neve v. Le Neve, W. and T. Leading Cases*, 7th Ed. Vol. ii, 175, at p. 193.

Finally all the cases were reviewed in, *Bunwari Jha v. Ramjee Thakur*, 7 C. W. N., 11, and it was held that mere registration of puisne mortgages did not amount to a constructive notice to the prior mortgagee, and he was not bound, before suing on his mortgage, to make a search in the registration office to ascertain who had subsequently acquired a right to redeem, and was not guilty of gross negligence or wilful abstention in not causing such a search. Allrhabad and Bombay cases were disapproved and the Madras and Calcutta cases approved, Q. V.

Whether registration in itself amounts to notice in any case depends upon the facts and circumstances of that case-upon the degree of care and caution which an ordinary prudent man would necessarily take for the protection of his own interest by search into the registers kept under the Registration Act.

Cases of Priority.

In *Keshav Pandarang v. Vinayak Hari*, 18, Bom., 355, where on the 7th August, 1876, an unregistered purchase was made by deft; who gave a lease to his vendor the same day, and in 1878 got a decree for rent against his vendor; and where on 23rd May, 1881, plaintiff purchased by registered deed from the same vendor, and in 1888, plaintiff sued to establish title and recover possession, it was held that the plaintiff was entitled to a decree, his registered deed taking priority to the unregistered deed of the deft. *Kolhari Nagabhashanum v. Ammanna*, 3 Mad., 71, and *Madar Saheb v. Subbarayalu*, 6 Mad., 88, distinguished.

The unregistered document to claim priority must be merged in and superseded by the decree. *Bajinath v. Luchman Das*, 7 All., 888.

In *Jethabai Dayalji v. Girdhar*, 20 Bom., 158, it was held that apart from the doctrine of equitable notice, registration under Act XVI of 1864, and Act VIII of 1871, conferred no priority on a registered document as against a document the registration of which was optional. Since Act III of 1877, however the competition obtains in a more general form and confers priority on all documents required to be registered and registered since Act III, was passed over all prior unregistered documents of an antagonistic character. Section

s. 50 has made a rule under which the registered mortgage would have priority over every unregistered document of earlier date, unless the latter be held to come within an exception, or the equitable rule about notice is applied.

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It must be noted that this ruling is partly based on the special incidents of *san* mortgages with which we have nothing to do in Bengal.

In *Diwan Singh v. Jadho Singh*, 19 All., 145, (reported also in 20 All., 252) it was held that s. 50 will not avail to give the holder of a subsequent registered deed priority in respect of his deed over the holder of an earlier unregistered deed, not being a compulsorily registrable deed, if in fact the holder of the registered deed had at the time of its execution notice of the earlier unregistered deed. *Abool Husein v. Raghunath Saha*, 13 Cal., 70; *Hathi Sing Sobhai v. Kuvarji Javher*, 10 Bom., 105; followed *Krishnamma v. Suranna*, 16 Mad., 148; *The Agra Bank v. Barry*, 7 E. & I. A., 134, and *Ram Autur v. Dhanauri*, 8 All., 540, referred to.

In *Hargobind v. Kishan Kumwar*, 28 All., 607, it was held that s. 50 did not give to a registered mortgage executed in 1900, priority over an unregistered mortgage of 1861, when registration was not compulsory, but s. 2 Act XIX of 1843 gave priority to registered over unregistered instruments. But s. 68 Act XVI of 1864, secured priority for registered instruments mentioned in cl. 1 & 2 of section 16 only and repealed the Act of 1843. Between 1864 and 1877 registration did not give priority except in regard to certain instruments of which the registration was optional. *Tirumala v. Lakshmi*, 2 Mad., 147, and *Desai Lallubhai v. Mundas Kuberdas*, 20 Bom., 390, followed; *Hickson v. Darlow*, L. R., 28 Ch. Div., 690, referred to.

Where an unregistered sale of land valued under Rs. 100 was followed by a subsequent registered hypothecation to another person, but the possession of the first purchaser had lasted for over 12 years; Held, that the registered hypothecation was defeated by such possession. Section 50 does not interfere with the operation and effect of limitation and prescription governing such a case as this. *Nallavunathe Pillai v. Betha Naicken*, 23 Mad., 37. This ruling was followed in *Budankayala v. Vinayaka*, 26 Mad., 72.

In *Ishan Chandra Dey v. Gonesh Chandra Parsi*, 28 Cal., 139; s. c. 5, C. W. N., 419, it was held that a purchaser of immoveable property under a registered deed of sale is entitled to priority over a purchaser of the same property in execution of a subsequent decree obtained under a prior unregistered deed. *Bajinath v. Luchman Dass*, 7 All., 888, dissented from.

This ruling was followed in *Sarat Chandra Sill v. Sheikh Meher*, 4 C. L. J., 490, though the case of *Protap Chandra Mandal v. Ishan Chandra Chowdhry*, 4 C. W. N., 266, seems to take a contrary view. But that case was decided solely on the ground of the priority conferred by registration,

When a sale deed for more than Rs. 100 is lost within the time allowed for registration the purchaser may bring a suit to compel registration on execution of a fresh deed, and if the property has been resold to a person with notice of plaintiff's sale the latter is entitled to priority and to possession. *Nallappa Reddi v. Ramalingachi Reddi*, 20 Mad., 250.

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OF THE DUTIES AND POWERS OF REGISTERING OFFICERS

(A.) As to the Register-Books and Indexes.

Register-Books to be
kept in the several
offices.

51. (1) The following books shall be kept in the several offices hereinafter named (namely)—

(a) In all registration-offices—

Book 1, "Register of non-testamentary documents relating to immoveable property ;"

Book 2, "Record of reasons for refusal to register,"

Book 3, "Register of wills and authorities to adopt ;"

Book 4, "Miscellaneous Register."

(b) In the offices of Registrars—

Book 5, "Register of deposits of wills.

2. In Book I shall be entered or filed all documents or memoranda registered under sections 17, 18 and 89* which relate to immoveable property, and are not wills.

3. In Book 4 shall be entered all documents registered under clauses (d) and (f) of section 18, which do not relate to immoveable property.

4. Nothing in the former part of this section shall be deemed to require more than one set of books where the office of the Registrar has been amalgamated with the office of a Sub-Registrar. (s. 51.)

Register-book on 2 is the only book of which a doubtful set is kept. This is necessary to distinguish original orders of refusal from orders on appeal.

As regards the effect of a Sub-Registrar's action in registering a document in Book 1 or 4, vide *Najibulla Mulla v. Nusir Mistri*, I. L. R., 7 Cal., 196, as referred to in *Ramsidh Pare v. Balgobind*, I. L. R., 9 All., 158.

The former ruling appeared to be of doubtful validity since the action of the Sub-Registrar, which may have been right or wrong, was held to show the intention of the parties, which in practice it could not possibly do, since the parties

* The figures 89 were substituted for the original figures by Act XII of 1879, s. 106, printed, General Acts, 1877—81, Ed. 1884, p. 338.

have no means of knowing till after their document is returned in what book it is registered.

But the question has now been set at rest as far as judicial pronouncement is concerned by the rulings in *Indra Bibi v. Jain Sardar Ahr*, 35 Cal., 545; (s. c.) 7 C. L. J. 149: 12 C. W. N., 316, and *Jagatdhar Narain Prasad v. A. M. Brown*, 33 Cal. 1133, though in the report of the last ruling there is a mistake in the head note and at page 1153 where the positions of Book I and Book IV are reversed. The Madras High Court has taken the same view in *Narasamma v. Subarayadu*, 18 Mad., 364.

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These rulings impose upon registering officers and legal practitioners a new and important duty of ascertaining from the parties in which book they desire their documents to be registered and of carefully explaining to them the effect of a mistake in procedure, since a mere clerical error now has the effect of depriving a mortgagee or purchaser of immovable property of his right to recover such property.

52. (1) (a) The day, hour and place of presentation, and the signature of every person presenting a document for registration, shall be endorsed on every such document at the time of presenting it:

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(b) a receipt for such document shall be given by the registering officer to the person presenting the same; and,

(c) subject to the provisions contained in section 62, every document admitted to registration shall without unnecessary delay be copied in the book appropriated therefor according to the order of its admission.

(2) And all such books shall be authenticated at such intervals and in such manner as is from time to time prescribed by the Inspector-General.

Where a mortgage-deed was produced before a Sub-Registrar, he recorded an endorsement on it, reciting a statement made by the mortgagor as to the effect of the deed. *Held* that such a statement was not one of the facts specified in Ss. 52 and 58, Act III of 1877, the occurrence of which as mentioned in the endorsements made by the Registering Officer under those sections and dated and signed by him (S. 59,) may be proved under S. 60 by his certificate of registration; and in the absence of any evidence of the alleged statement beyond the Sub-Registrar's certificate and endorsements, they cannot have any effect. S.c. 296 (Oudh).

The registration by a Sub-Registrar of a document referring to land not in his sub-district has not the effect of registration. Where the description of the property given in the document was misleading and insufficient for the

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purposes of identification, though otherwise a party presenting the document for registration should not be made liable for the mistake of the Sub-Registrar L. B. R. 18 93-1900) 577. See also *Khalil-ud-din Ahmed v. Banni Bibi*, 10, A. L. J. 410. (F. B.)

53. All entries in each book shall be numbered in a consecutive series, which shall commence and terminate with the year, a fresh series being commenced at the beginning of each year.

Entries to be numbered consecutively.

54. In every office in which any of the books hereinbefore mentioned are kept, there shall be prepared current indexes of the contents of such books; and every entry in such indexes shall be made, so far as practicable, immediately after the registering officer has copied, or filed a memorandum of the document to which it relates.

Current indexes and entries therein.

55. (1) Four such indexes shall be made in all registration offices, and shall be named, respectively, Index No. I, Index No. II, Index No. III, and Index No. IV.

Indexes to be made by registering officers and their contents.

(2) Index No. I shall contain the names and additions of all persons executing and of all persons claiming under every document entered or memorandum filed in Book No. 1.

(3) Index No. II shall contain such particulars mentioned in section 21 relating to every such document and memorandum as the Inspector-General from time to time directs in that behalf.

(4) Index No. III shall contain the names and additions of all persons executing every will and authority entered in Book No. 3, and of the executors and persons respectively appointed thereunder and after the death of the testator or the donor (but not before) the names and additions of all persons claiming under the same.

(5) Index No. IV shall contain the names and additions of all persons executing and of all persons claiming under every document entered in Book No. 4.

(6) Each index shall contain such other particulars, and

Extra particulars in
Indexes.

shall be prepared in such form, as the
Inspector-General from time to time

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ss. 56, 57.

directs. (s. 59.)

An executor of a will is not obliged in this country as in England to shed his character of executor before he can appear in the new character of legatee—*Bago Jan v. Chowdhry Zuhoorul Huq*, 13 W. R., 69.

Hence an executor who is also legatee must be indexed a second time in his character of a person claiming under the will after the death of the testator. By departmental rules the latter class of index entries are made in red ink.

56. (1) Every Sub-Registrar shall send to the Registrar

Copy of entries in In-
dexes Nos. I, II and III
to be sent by Sub-Regis-
trar to Registrar and
filed.

to whom he is subordinate, at such inter-
vals as the Inspector-General from time
to time directs, a copy of all entries made

by such Sub-Registrar, during the last of such intervals, in
Indexes Nos. I, II and III.

(2) Every Registrar receiving such copy shall file it
in his office.

57. (1) Subject to the previous payment of the fees pay-
able in that behalf, the Books Nos. 1 and

Registering officers to
allow inspection of cer-
tain Books and Indexes,
and to give certified
copies of entries.

2 and the Indexes relating to Book No. 1
shall be at all times open to inspection by
any person applying to inspect the same ;

and subject to the provisions of section 62, copies of entries
in such Books shall be given to all persons applying for such
copies.

(2) Subject to the same provisions, copies of entries in
Book No. 3 and in the Index relating thereto shall be given
to the persons executing the documents to which such entries
relate or to their agents, and after the death of the execu-
tants (but not before) to any person applying for such copies.

(3) Subject to the same provisions, copies of entries in
Book No. 4 and in the Index relating thereto shall be given
to any person executing or claiming under the documents to
which such entries respectively refer, or to his agent or re-
presentative.

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(4) The requisite search under this section for entries in Books Nos. 3 and 4 shall be made only by the registering officer.

(5) All copies given under this section shall be signed and sealed by the registering officer, and shall be admissible for the purpose of proving the contents of the original documents.

In the case of a will held that the original should be brought into Court, where alone the *factum* of the will could be tried and determined; and that a copy, authenticated under s. 65 of the Act, was not sufficient. The Registrar-General should not, after the death of the depositor of a will, part with it otherwise than by order of the Court.—*In the goods of Nagindas*, 3 Bom., O. C., 135.

By departmental orders a copy of the abstract of powers-of-attorney may be granted to the applicant and the value of the stamp-duty for such copies has been regulated by Schedule I, Art. 22 (a) of the Indian Stamp Act I of 1879.

The question whether copies of powers should be given to any applicant or only to persons claiming under them or executing them was determined by the consideration whether immoveable property is affected in any way by them. If it is, they were to be treated like entries in Book 1: if otherwise, as entries in Book 4. The registering officer alone can make the search.

But the rulings above cited under section 51 seem to render this salutary practice nugatory and *ultra vires*.

(B)—*As to the procedure on admitting to Registration.*

58. (1) On every document admitted to registration, other than a copy of a decree or order,* or a copy sent to a registering officer under section 89,* there shall be endorsed from

Particulars to be endorsed on documents admitted to registration.

time to time the following particulars (namely),—

(a) the signature and addition of every person admitting the execution of the document; and, if such execution has been admitted by the representative, assign or agent of any person, the signature and addition of such representative, assign or agent;

(b) the signature and addition of every person examined in reference to such document under any of the provisions of this Act; and

(c) any payment of money or delivery of goods made in

* These words were substituted for the original words and figures by Act VII of 1886, s. 3 (2), printed, General Acts, 1885—88, Ed., 1889, p. 62.

the presence of the registering officer in reference to the execution of the document, and any admission of receipt of consideration, in whole or in part, made in his presence in reference to such execution.

(2) If any person admitting the execution of a document refuses to endorse the same, the registering officer shall nevertheless register it, but shall at the same time endorse a note of such refusal.

The omission of a person admitting execution either on his own behalf or on that of a deceased person to endorse his signature on the document does not invalidate the registration of document.—*Man Bhari v. Naumidh*, 1. L. R., 4 All., 40.

The admission of receipt of consideration before a Sub-Registrar has been held not to be conclusive evidence, though it is evidence of the strongest and most reliable description.—*Mahumad Haneef Meajes v. Mozhur Ali*, 15 W. R., 280.

59. The registering officer shall affix the date and his signature to all endorsements made under sections 52 and 58, relating to the same document and made in his presence on the same day.

Endorsements to be dated and signed by registering officer.

60.* (1) After such of the provisions of sections 34, 35, 58, and 59 as apply to any document presented for registration have been complied with, the registering officer shall endorse thereon a certificate containing the word "registered," together with the number and page of the book in which the document has been copied.

Certificate of registration.

(2) Such certificate shall be signed, sealed and dated by the registering officer, and shall then be admissible for the purpose of proving that the document has been duly registered in manner provided by this Act, and that the facts mentioned in the endorsements referred to in section 59 have occurred as therein mentioned.

A deed of sale which required to be registered not having been registered and the time for presenting it for registration having expired the vender in order to avoid the effect of the deed of sale being unregistered, gave the pur-

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chaser a bond confirming such deed. The bond with the deed of sale annexed thereto was presented for registration. By mistake or for some other reason, the particulars to be endorsed on a document admitted to registration and the certificate showing that a document has been registered, were endorsed on the deed of sale and not on the bond. *Held*, that, assuming that the bond had been registered, it was doubtful whether such an obvious attempt to defeat the provisions of the registration law should be permitted to succeed; that whether there had been a mistake and the certificate of registration really applied to the bond or not, the provisions of ss. 58, 59 and 60 of the Registration Act had not been complied with and the bond was to all intents and purposes unregistered and that the defect was not a "defect of procedure" within the meaning of s. 87, which could be passed over. *Mathura Das v. Mitchell*, 1 L. R., 4 All., 206.

In the same case on appeal to the Privy Council it was held, reversing the decision, that the bond was duly registered, and that the fact that prior deed had not affected the property, being unregistered, was no reason why the deed afterwards registered should not be admitted as evidence of title. In this there had been nothing contravening the objects of the Registration Act—*Mitchell v. Mathura Das*, 1 L. R., 8 All., 6 L. R., 12 I. A., 150. But see the case of *Gokulbhoy v. Tullockchand*, 21 Bom. 69 and 724 supra, s. 24.

The judgment of the Privy Council is no doubt technically correct. It is a case of *factum valet quod fieri non debuit*. But if all deeds of sale could be tacked on unregistered to a simple bond, the provisions for the registration of immoveable property might as well cease to exist. Registering officers must not therefore take this decision as justifying similar conduct on their part. No such deed should be accepted unless the full stamp duty and fees *ad valorem* as a deed of sale of immoveable property are paid on the bond or agreement confirming the sale.

When registered such mistakes cannot be rectified, but the words of the Allahabad High Court "by mistake or for some other reason" are very significant and it would be exceedingly difficult for a registering officer to satisfy his departmental superiors or a Court of Justice that he was acting "in good faith" as required for his protection from liability under s. 86 if he were to act in a similar manner under similar circumstances.

Where a Registrar of Assurances has intentionally and deliberately issued a certificate of due registration of a document with the knowledge of certain facts relied on as affecting his power to grant the certificate, the Courts are bound to accept such certificate as due proof of registration, and cannot go behind it for the purpose of satisfying themselves that the registering officer has strictly conformed with all the provisions of the Act. *Sheo Shunker Sahoy v. Hirdey Narain Sahu*, 1 L. R. 6 Cal., 25.

A Civil Court cannot dispute the correctness of the certificate of due registration on a document produced in evidence before it, merely on the ground that the property referred to by the deed is situate out of the jurisdiction of the Registrar by whom the certificate is granted. *Ram Coomar Sen v. Khoda Neway*, 7 C. L. R., 223

This case was distinguished in *Beni Madhub Mitter v. Khatir Mondul*,

I. L. R., 14 Cal., 449 in which it was laid down that the Court can go behind a certificate of registration, and where it finds that a document was registered by an officer, who had no jurisdiction to register it, will refuse to receive it in evidence on the ground that it is not duly registered.

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This case appears, however, to stand alone, and a more recent Allahabad case in which all the old cases referred to has gone back to the former principle. This ruling is also important as clearly defining what registration actually is.

The word "registered" as used in s. 49 of the Registration Act (III of 1877) refers to the act of registration by the registering officer and not to matters of procedure or conduct of the parties seeking registration, which are governed by special provisions of the Act. Section 49, read with s. 60, only means that a document to be admissible in evidence for the purposes of the former section must be registered, *i.e.*, the officer must, under s. 60, have put upon it the certificate required by that provision. If he has done so, the document bearing such certificate becomes admissible in evidence if he has not, or there has been no registration of the document, then such document is inadmissible. Where the document bears such a certificate, it is registered within the meaning of s. 60 and becomes under the second paragraph thereof admissible in evidence, and the operation of the second paragraph is not interfered with by s. 49. Where, therefore, the Lower Appellate Court rejected as inadmissible in evidence under s. 49 a deed-of-gift of immoveable property upon which was endorsed a certificate under s. 60, on the ground that the person presenting it for registration and admitting execution was not qualified to do so under ss. 32 and 35, and the registration was consequently void and the document not registered under s. 17 (a). *Held* that the Court was wrong in so doing, and ought to have looked at and dealt with the document.—*Hardei v. Ram Lal*, *I. L. R.*, 11 All., 319.

Followed in *Nandkishore Lal v. Suraj Prasad*, 20 All., 392.

This view of the law has been still more recently confirmed by a Bombay ruling of the year 1893. A conveyance of immoveable property did not contain in the body of the deed a description of it sufficient to identify it. In a foot-note, however, such a description was given, and it was signed by the assignee only. The deed was accepted by the Registrar and was registered, and a certificate to that effect was given under s. 60 of the Registration Act (III of 1877). The deed being tendered in evidence was objected to on the ground that it ought to be treated as unregistered, since it had been improperly accepted for registration by the Registrar. *Held* that the error in accepting it, if error there was did not invalidate the registration: see *Sah Makhan Lal v. Sah Koondan Lal* (*L. R.*, 21. A., p. 210; *Shekh Adam Isufbhai v. Jamnadas Ranchordas*, *I. L. R.*, 17 Bom., 94.

To sum up in the words of one of the oldest extant rulings on the subject: "A certificate of registration is evidence that a document has been registered, but not that it was executed."—*Kripānath Talapatra v. Bhasai Mollah*, 6 W. R., 105.

So in *Monohar Singh v. Sumirta Kuar*, 17 All., 428, it was held that the mere production of the deed of mortgage the genuineness of which was questioned by a purchaser under a rent decree and the fact that the deed of mortgage

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contained an endorsement certificate by the Registrar in the usual manner under s. 59 were not sufficient to shift the burden of proof on the defts.

It was also held, under the old Act XVI of 1864, that it was not necessary to prove the registering officer's signature.—*Mir Habeabois Sobhair v. Mir Hosain Ali*, 5 W. R., 14 S. C. C. Ref. As to seal, see *Sitanath Bandopadhyaya v. Bissessur Roy Chaudhuri*, 6 C. W. N., 528.

As regards powers-of-attorney the ruling in *Ikkal Begam v. Sham Sundar*, I. L. R., 4 All., 384, is important. A document was presented for registration by the agent of the person executing it under a power-of-attorney not recognizable under the registration law and was admitted to registration.

Held, that the executant could not be allowed to object to the validity of its registration, she being herself responsible for the defect.

It will be observed that this ruling also does not affect the question of execution.

61. (1) The endorsements and certificate referred to and mentioned in sections 59 and 60 shall thereupon be copied into the margin of the register-book, and the copy of the map or plan (if any) mentioned in section 21 shall be filed in Book No. 1.

Endorsements and certificates to be copied and document to be returned.

(2) The registration of the document shall thereupon be deemed complete, and the document shall then be returned to the person who presented the same for registration, or to such other person (if any) as he has nominated in writing in that behalf on the receipt mentioned in section 52.

62. (1) When a document is presented for registration under section 19, the translation shall be transcribed in the register of documents of the nature of the original, and together with the copy referred to in section 19, shall be filed in the registration-office.

Procedure on presenting document in language unknown to registering officer.

(2) The endorsements and certificate respectively mentioned in sections 59 and 60 shall be made on the original, and for the purpose of making the copies and memoranda required by sections 57, 64, 65 and 66, the translation shall be treated as if it were the original.

63. (1) Every registering officer may at his discretion administer an oath to any person examined by him under the provisions of this Act.

Power to administer oath. Record of substance of statements.

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(2) Every such officer may also at his discretion record a note of the substance of the statement made by each such person, and such statement shall be read over, or (if made in a language with which such person is not acquainted) interpreted to him in a language with which he is acquainted; and, if he admits the correctness of such note, it shall be signed by the registering officer.

(3) Every such note so signed shall be admissible for the purpose of proving that the statements therein recorded were made by the persons and under the circumstances therein stated.

(C)—Special duties of Sub-Registrar.

64. Every Sub-Registrar on registering a non-testamentary document relating to immovable property, not wholly situate in his own sub-district, shall make a memorandum thereof and of the endorsement and certificate (if any) thereon, and send the same to every other Sub-Registrar subordinate to the same Registrar as himself, in whose sub-district any part of such property is situate, and such Sub-Registrar shall file the memorandum in his Book No. 1.

Procedure where document relates to land in several sub-districts

Procedure as to property situate outside British India, see—25 Bom. 50 (51)
/ (s. c.) 2 Bom. L. R. 608 (609).

65. (1) Every Sub-Registrar on registering a non-testamentary document relating to immovable property situate in more districts than one shall also forward a copy thereof and of the endorsement and certificate (if any) thereon, together with a copy of the map or plan (if any)

Procedure where document relates to land in several districts.

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tration

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mentioned in section 21, to the Registrar of every district in which any part of such property is situate other than the district in which his own sub-district is situate.

(2) The Registrar on receiving the same shall file in his Book No. 1 the copy of the document and the copy of the map or plan (if any), and shall forward a memorandum of the document to each of the Sub-Registrars subordinate to him within whose sub-district any part of such property is situate; and every Sub-Registrar receiving such memorandum shall file it in his Book No. 1.

(D)—Special Duties of Registrar.

66. (1) On registering any non-testamentary document relating to immovable property, the Registrar shall forward a memorandum of such document to each Sub-Registrar subordinate to himself in whose sub-district any part of the property is situate.

(2) The Registrar shall also forward a copy of such document, together with a copy of the map or plan (if any) mentioned in section 21, to every other Registrar in whose district any part of such property is situate.

(3) Such Registrar on receiving any such copy shall file it in his Book No. 1, and shall also send a memorandum of the copy to each of the Sub-Registrars subordinate to him within whose sub-district any part of the property is situate.

(4) Every Sub-Registrar receiving any memorandum under this section shall file it in his Book No. 1.

67. On any document being registered under section 30, sub-section(2), a copy of such document and of the endorsements and certificate thereon shall be forwarded to every Registrar within whose district any part of the property to which the instrument relates is situate, and the Registrar receiving such copy shall follow the procedure prescribed for him in section 66, sub-section (1)

Procedure after registration under section 30, sub-section(2).

(E)—Of the controlling Powers of Registrars and Inspectors-General.

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68. (1) Every Sub-Registrar shall perform the duties of his office under the superintendence and control of the Registrar in whose district the office of such Sub-Registrar is situate.

Power of Registrar to superintend and control Sub-Registrars.

(2) Every Registrar shall have authority to issue (whether on complaint or otherwise) any order consistent with this Act which he considers necessary in respect of any act or omission of any Sub-Registrar subordinate to him, or in respect of the rectification of any error regarding the book or the office in which any document has been registered.

69. (1) The Inspector-General shall exercise a general superintendence over all the registration offices in the territories under the Local Government, and shall have power from time to time to make rules consistent with this Act—

Power of Inspector-General to superintend registration-offices and make rules.

- (a) providing for the safe custody of books, papers and documents, and also for the destruction of such books, papers and documents as need no longer be kept ;
- (b) declaring what language shall be deemed to be commonly used in each district ;
- (c) declaring what territorial divisions shall be recognised under section 21 ;
- (d) regulating the amount of fines imposed under sections 25 and 34, respectively ;
- (e) regulating the exercise of the discretion reposed in the registering officer by section 63 ;
- (f) regulating the form in which registering officers are to make memoranda of documents ;

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- (g) regulating the authentication by Registrars and Sub-Registrars of the books kept in their respective offices under section 51 ;
- (h) declaring the particulars to be contained in Indexes Nos. I, II, III and IV, respectively ;
- (i) declaring the holidays that shall be observed in the registration-offices ;
- (j) and, generally, regulating the proceedings of the Registrars and Sub-Registrars.

(2) The rules so made shall be submitted to the Local Government for approval, and, after they have been approved, they shall be published in the Official Gazette, and on publication shall have effect as if enacted in this Act.

Section 80, Act XX of 1866, which was the corresponding section to the above, in no way empowered the Registrar-General to pass any rule directing by what particular description of evidence a person producing a deed to be registered shall prove his right to have it registered ; nor could it empower him to frame a special law different from the ordinary law of evidence as to what fact shall be proved by oral and what by documentary evidence. Where all the executants of a deed admit before the Registrar-General that they have executed the deed, that officer has nothing to do with the recitals of the deed, or with its possible operation as regards third parties, *e.g.*, a minor whose rights are reserved in the deed — *In the matter of Ram Chunder Biswas*, 16 W. R., 180.

The duties of Registrar-General as a registering officer no longer exist, *vide* above Introductory Chapter, but the above ruling equally apply to all registering officers.

70. The Inspector-General may also, in the exercise of his discretion, remit wholly or in part the difference between any fine levied under section 25 or section 34, and the amount of the proper registration fee.

Power of Inspector
 General to remit fine.

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OF REFUSAL TO REGISTER.

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Reasons for refusal to
register, to be recorded.71. (1) Every Sub-Registrar refusing
to register a document,

except on the ground that the property to which it relates is not situate within his sub-district, shall make an order of refusal and record his reasons for such order in his Book No. 2, and endorse the words "registration refused" on the document; and on application made by any person executing or claiming under the document, shall, without payment and unnecessary delay, give him a copy of the reasons so recorded.

(2) No registering officer shall accept for registration a document so endorsed unless and until, under the provisions hereinafter contained, the document is directed to be registered.

The words "without payment" in this section were by mistake omitted from the authorised Bengali translation of this Act issued in 1877.

72. (1) Except where the refusal is made on the ground of denial of execution, an appeal shall lie against an order of a Sub-Registrar refusing to admit a document to registration (whether the registration of such document is compulsory or optional) to the Registrar to whom such Sub-Registrar is subordinate, if presented to such Registrar within thirty days from the date of the order; and the Registrar may reverse or alter such order:

Appeal to registrar
from orders of Sub-
Registrar refusing re-
gistration on grounds
other than denial of
execution.

(2) and if the order of the Registrar directs the document to be registered and the document is duly presented for registration within thirty days after the making of such order, the Sub-Registrar shall obey the same, and thereupon, shall, so far as may be practicable, follow the procedure prescribed in sections 58, 59 and 60; and such registration shall

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take effect as if the document had been registered when it was first duly presented for registration.

A Registrar acting under sections 72 to 75 of this Act is a Court for the purposes of Criminal Procedure Code, section 195.—*Atchayya v. Gangayya*, I. L. R., 15 Mad., 138.

73. (1) When a Sub-Registrar has refused to register a document on the ground that any person by whom it purports to be executed, or his representative or assign, denies its execution, any person claiming under such document, or his representative, assign or agent authorized as aforesaid, may, within thirty days after the making of the order of refusal, apply to the Registrar to whom such Sub-Registrar is subordinate in order to establish his right to have the document registered.

Application to Registrar where Sub-Registrar refuses to register on ground of denial of execution.

(2) Such application shall be in writing and shall be accompanied by a copy of the reasons recorded under section 71, and the statements in the application shall be verified by the applicant in manner required by law for the verification of plaints.

Sub-Registrars at District Head-Quarters have been empowered by Government to hear appeals under this section, except those from their own order. All ordinary appeals under section 73, from the orders of Rural Sub-Registrars, are now heard by the Special Sub-Registrar, though the District Registrar will exercise a discretion in retaining cases of peculiar intricacy or importance on his own file.

By Government Order No. 262 P., of 29th January 1885, when a Special Sub-Registrar is transferred to another district, fresh orders of Government are necessary to enable him to exercise the amalgamated powers given by section 7. Refusal to admit execution of a document is a denial of execution within the meaning of the Registration Act, 1877, and so also is a wilful refusal or neglect to attend and admit execution; and where such refusal or neglect occurs, a suit will lie under section 77 for the purpose of having the document registered.—*Radhakissen Rowra Dakna v. Choonee Lall Dutt*, I. L. R., 5 Cal., 445.

The same view was taken in *Lakhi Narain Khettry v. Sathourie Pyne*, 16, Cal., 189, in *Kudrati Begum v. Najibunnessa*, 25 Cal., 93, and in *Kanhaya Lal v. Sardar Singh*, 29, All., 284.

In the Bombay Ruling, *In re Abdul Aziz*, I. L. R., 11 Bom., 691, the law is more clearly laid down that the non-appearance of an executant in pursuance

of summons is equivalent to a denial of execution within section 35 of the Registration Act, and the deed must be refused so as to give the Registrar jurisdiction to hold an enquiry under section 74, and so enable the parties to seek their last remedy in the Civil Courts.

This clearly shows that the rulings are not at variance with the decisions quoted below under section 77, which go to show that the remedy in the Civil Courts depends on the remedies under the Registration law having been exhausted.

The words "wiful refusal or neglect to attend in pursuance of a summons" should be substituted by registering officers in the second ruling above quoted for "non-appearance in pursuance of summons" in order to get the correct rule of practice in Bengal. There must be something to show that the executant has received the summons and is wifully neglecting to appear, or that he is wifully evading service of the summons. Mere non-appearance is not sufficient ground for refusal.

74. In such case, and also where such denial as aforesaid is made before a Registrar in respect of a document presented for registration to him, the Registrar shall, as soon as conveniently may be, enquire—

Procedure of Registrar on such application.

(a) whether the document has been executed ;

(b) whether the requirements of the law for the time being in force have been complied with on the part of the applicant or person presenting the document for registration, as the case may be, so as to entitle the document to registration.

A Registrar cannot delegate his power under section 74 to a Subregistrar. An order for the prosecution of a witness who gives evidence before the Subregistrar in such an enquiry is wrong in law. *Matadyal v. Q. E.*, 24 Cal., 755.

75. (1) If the Registrar finds that the document has been executed and that the said requirements have been complied with, he shall order the document to be registered.

Order by register to register : procedure thereon.

In the case of *Baban Sahai v. Udit Narain*, 5 C. L. J., 188, Geidt J. sitting singly, held that the registering officer has no jurisdiction to register a document, presented after the lapse of thirty days from the date of the order passed by the District Registrar under the first para : of s. 75, even if the time for such presentation is extended by a subsequent order of the District Registrar. It is not a mere matter of procedure. A document registered after the said period of 30 days is not validly registered and creates no title. *Sah Mukhun*

PART XII. *v. Sak Koondun*, L. R., 2 I. A., 210 ; 15 B. L. R., 228, and *Mahamad Ewas v. Brij Lall*, L. R. 4 I. A., 166 ; 1 All., 465, distinguished. *Mujib-un-nissa v. Abdur Rahim*, 23 All., 233, referred to.

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Section 5 of the Limitation Act has no application to such a case and the time for registration cannot be extended under that section.

Where a person is affected by a deed which he impeaches as not duly registered, it is open to him to take the objection, although he was no party to the deed. *Achal Ram v. Karim Hussain*, L. R., 32, I. A., 113 ; 27 All., 271, distinguished.

(2) And if the document be duly presented for registration within thirty days after the making of such order, the registering officer shall obey the same, and thereupon shall, so far as may be practicable, follow the procedure prescribed in sections 58, 59 and 60.

(3) Such registration shall take effect as if the document had been registered when it was first duly presented for registration.

(4) The Registrar may, for the purpose of any enquiry under section 74, summon and enforce the attendance of witnesses, and compel them to give evidence as if he were a Civil Court, and he may also direct by whom the whole or any part of the costs of any such enquiry shall be paid, and such costs shall be paid, and such costs shall be recoverable as if they had been awarded in a suit under the Code of Civil Procedure.* Act V of 1908.

Under section 84, Act XX of 1866, the District Judge (presumably acting as Registrar) ordered, without taking any evidence, the registration of a document which had been opposed on the ground that the execution of it had been obtained fraudulently and by putting the executant under duress. The executant brought a Civil suit against the party in favour of whom the document had been drawn, for a declaration that the document was not genuine, and was invalid and inoperative. *Held*, that the Civil Court had jurisdiction to try the genuineness of a registered document : that the registration of a document, the execution of which was obtained by improper means, affecting the property of the executant, is a

* This reference to Act VIII of 1859 should now be read as applying to Act XIV of 1882—see section 3 of the latter Act. (For Act XIV of 1882 see the revised edition, as modified up to 1st July, 1888, published by the Legislative Department.)

good cause of action on which to ask for a declaratory decree.—*Prossono Kumar Sandyal v. Mathuranath Banerjee*, 8 B. L. R., Ap. 26 ; 15 W. R., 487.

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Under the special procedure provided in the Registration Act (III of 1877), the defendant, in whose favour a document was said to have been executed, succeeded in obtaining an order from the District Registrar for the registration of the same, although the plaintiff, who was alleged to have executed it, appeared before the Sub-Registrar, and subsequently before the Registrar, and denied executing it, and alleged it to be a forgery. In a suit brought under the above circumstances to have the document declared void and to have it cancelled, *held*, that the proceedings of the Registrar, when he enquired whether the document had been duly executed or not, were in no sense those of a "competent Court," but only those of an executive officer invested with *quasi-judicial* functions, and that, consequently, such a suit was maintainable. *Held*, also, that the Specific Relief Act (I of 1877) applied, section 39 evidently contemplating and providing for such a suit.—*Mohima Chunder Dhur v. Jugal Kishore Bhattacharji*, I. L. R., 7 Cal., 736.

In this decision the learned Judges distinctly stated that they were following the ruling first quoted, and the two cases must therefore be read together. Up to 1877 the Civil Courts had an equitable power to grant declaratory decrees inherited from the Courts of Chancery in England.—*Ram Needhee Koondoo v. Rughoonath Narain Mullo*, I. L. R., 1 Cal., 456.

The Specific Relief Act made this a statutory power. Section 39 runs as follows:—

"Any person against whom a written instrument is void or voidable, who has reasonable apprehension that such instrument, if left outstanding, may cause him serious injury, may sue to have it adjudged void or voidable, and the Court may, in its discretion, so adjudge it and order it to be delivered up and cancelled.

"If the instrument has been registered under the Indian Registration Act the Court shall also send a copy of its decree to the officer in whose office the instrument has been so registered, and such officer shall note on the copy of the instrument contained in his books the fact of its cancellation"

The decisions in both cases are therefore based on an inherent jurisdiction in the Courts to declare a written instrument void or voidable, and not on the defective jurisdiction of the Registrar as referred to in the second ruling. The law having given the Registrar a discretion under this section of hearing these appeals in all respects as a Civil Court, it must, I think, be decided in each case whether the Registrar has carried out the procedure described in the last para of section 75.

To lay down that the Registrar is in no case of appeal under the Registration Act "a competent Court," would tend to make every decision a purely executive order made without hearing the parties and without due consideration of the legal value of the evidence.

The equitable jurisdiction of the Civil Courts in the case first cited was based on the fact that the Judge took no evidence, and the learned Judges in the second case do not lay down that a Registrar's proceedings under section 74 are in no sense ever those of a "competent Court," but simply that the proceedings

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in this particular case in which no section is specified were not of a character entitling them to be held proceedings of a "competent Court."

The power of the Civil Courts to discredit registered documents (a power which is daily exercised in this country) is in no way affected by the Registrar's proceedings. This can be done in any case in which a document comes before a Court, but the power of cancellation can only be exercised in a regular suit under section 39 of the Specific Relief Act, and it is doubtful whether a Court would entertain such a suit if the proceedings before the Registrar showed that the evidence had been fully recorded and the validity of the document fully established, so that it could not be said to be either void or voidable, except, of course, for some illegal condition contained in the document itself with which Registering officers have nothing to do.

76. (1) Every Registrar refusing—

(a) to register a document except on the ground that the property to which it relates is not situate within his

Order of refusal by Registrar. district or that the document ought to be registered in the office of a Sub-

Registrar, or

(b) to direct the registration of a document under section 72 or section 75,

shall make an order of refusal and record the reason for such order in his Book No. 2, and, on application made by any person executing or claiming under the document, shall, without unnecessary delay, give him a copy of the reasons so recorded.

(2) No appeal lies from any order by a Registrar under this section or section 72.

An application having been made under section 73 of the Registration Act, the Registrar passed the following order:—"All the parties have not appeared; the appeal is struck off. It, however, seems to me that the order of the Sub-Registrar was quite correct." *Held*, that the mere fact of the applicant not having adduced any evidence before the Registrar did not make his order one not refusing registration within the meaning of section 76; nor was the applicant precluded on that ground alone from pursuing his remedy under section 77 by a Civil suit. *Sajibullah Sirkar v. Hazi Khosh Mohamed Sirkar*, I. L. R., 13 Cal., 264.

It would appear from this that a final order of the Registrar upholding the Sub-Registrar's order of refusal is sufficient ground for a Civil suit whatever the reasons of the Registrar's order may be, or, in other words that the confirmation

of the Sub-Registrar's order by the Registrar is itself an order of refusal even though not so expressed. But see the F. B. ruling in 24 All., 402, noted below, s. 77.

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77. (1) Where the Registrar refuses to order the document to be registered, under section 72 or section 76, any person claiming under such document, or his representative, assign or agent, may, within 30 days after the making of the order of refusal, institute in the Civil Court within the local limits of whose original jurisdiction is situate the office in which the document is sought to be registered, a suit for a decree directing the document to be registered in such office, if it be duly presented for registration within 30 days after the passing of such decree ; (2).

Suit in case of order
of refusal.

(2) The provisions contained in subsections (2) and (3) of section 75 shall, *mutatis mutandis*, apply to all documents presented for registration in accordance with any such decree, and, notwithstanding anything contained in this Act, the document shall be receivable in evidence in such suit.

As regards the period of limitation, for these suits, *vide* above note to section 34.

As regards Court fees, see the F. B. ruling in *Ramu Aiyar v. Sanker Aiyar* 31 Mad., 89 where it was held that a suit under s. 77 of the Act does not fall under s. 7. cl. (4) c of the Court Fees Act, but under Art 17 (b) of schedule II. Such a suit to be valued for purposes of jurisdiction on the value of the property.

In a suit under s. 77 a Court cannot go into any matter affecting the validity of the document apart from its genuineness. *Balambar Ammal v. Annachela Chetti*, 18 Mad., 255 approved. *Raj Lakhi Ghose v. Debendra Chandra Mazumdar* 24 Cal., 668 s. c. I. C. W. N., 444.

The same rule has been laid down by the Allahabad High Court in *Kanhaya Lal v. Sardar Singh*, 29 All., 284.

In the matter of the petition of *Bishnath*, I. L. R., 1 All., 318, it was held by a majority of the Full Bench, Oldfield, J., dissenting, that a petition from a person who did not appear on the face of the document to be a person claiming under it could not be entertained under the provisions of section 73 of the Registration Act.

Under Act XVI of 1864 it was held that section 15 of that Act only applied to cases in which the Registrar had improperly refused to register an instrument. *Gooroo Doss Dutta v. Dwarkanath Manna*, 6 W. R. Mis., 61. Held however,

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the same section, that a suit to enforce registration lay where one of the parties of the deed refused to register it. *Krishen Kishore Chund v. Mahomed Zookahoolia*, Agra F. B., 148. A regular suit and not a miscellaneous application had to be brought to compel a Registrar to register. *Mutukdhari Lal v. Fuzal Hossain*, 6 W. R., Mis., 131. Referred to in *Chandra Kishore Munshi v. Dinendra Nath Sanyal*, 1 C. L. J., 126.

Under Act XVI of 1864 a decree to enforce registration could not be passed in respect of a deed presented for registration four months after the execution of the deed. *Oojul Mundul v. Herastoolah Mundul*, 7 W. R. 150. Under the Registration Acts of 1866 and 1871 a suit to enforce registration after refusal of registration could not be brought. The procedure provided in those Acts was by petition, and, if necessary, appeal. *Sepahee Singh v. Chundun*, 2 N. W., 160 Agra F. B.

The remedy, however, given by these Registration Acts by appeal, where a registering officer refused to register, did not affect the remedy by suit to compel the vendor to do all that is legally requisite to complete the sale, including the registration of the deed. *Ramphul Lal v. Chundee Pershad*, 1 N. W., 204, Ed., 1873, p. 287. Under the present law it has been ruled in all the reported cases with the exception of *Ram Ghulam v. Chotey Lal*, 1 L. R., 2 All., 46, which has been repeatedly commented on and dissented from both by the Calcutta and Allahabad Courts, that a suit to compel registration is maintainable only when the provisions of section 77 of the Act have been complied with i.e., when all the remedies provided by sections 72—76 of the Registration Act have been exhausted. *Bhagwan Singh v. Khuda Buksh*, 1 L. R., 3 All., 397; *Edun v. Mahomed Siddik*, 1 L. R., 9 Cal., 150; *Lakhimoni Chowdrain v. Akroomoni Chowdhraim*, 1 L. R., 9 Cal. 851.

But the ruling in *Abdulla Khan v. Janki*, 16 All., 303, has again expressed approval of *Ram Ghulam v. Chotey Lal*, though what was decided in this case, is that a suit brought to compel registration of a lease without applying for registration would lie independently of the Indian Registration Act, and that consequently limitation under section 77 would not apply. This is quite a new point and does not seem to have been considered by the other High Courts.

The ruling in *Kunhimmu v. Viyyathamma*, 1 L. R., 7 Mad., 535, appears to conflict with the principle on which the Calcutta decision was based in *Sajibullah Sirkar v. Hazi Khosh Mahomed Sirkar*, 1 L. R., 13 Cal., 264, cited above under section 76, but it seems to have been followed in the F. B. ruling in *Udit Upadhaya v. Imam Bandi Bibi*, 24 All., 402.

A Sub-Registrar, having refused to register certain documents on the ground that their execution was denied, the plaintiff appealed to the Registrar, who rejected the appeal because it was not preferred within 30 days as required by section 73 of the Registration Act, 1877. The plaintiff thereupon brought a suit to have the documents registered. The Madras Court held that, by virtue of the provisions of section 77, the Court was not competent to order registration.

Now, apart from the fact that all the remedies given by the Registration Act were exhausted, this ruling appears contrary to the plain principle that the order

of the Registrar rejecting the appeal from Sub-Registrar's order, on whatever grounds it may be given, is an order refusing registration, and has to be recorded under section 76 in the Register Book 2, which is a record of reasons for refusal and not a mere record of orders in appeal.

The Registrar having refused to order the document to be registered under section 72 or section 76, there is nothing in section 77 to oust the jurisdiction of the Civil Court.

The limitation imposed by the Act on the Registrar cannot run against the jurisdiction of the Civil Court which is not a Court of Appeal, but a Court of Original Jurisdiction in this matter.

It will be observed that the limitation of 30 days for presenting the document for registration runs from the final decree in the case, Vide *Gopinath Adhikari v. Gadadhar Das*, 33 Cal., 1020.

The decision in *Durga Singh v. Mothura Das*, 1. L. R., 6 All., 450, which laid down that, it was not competent for the successor in office of the Registrar or for the Court to question the propriety of a Registrar's order extending the time for presentation on payment of the prescribed fine under section 24 of the Act does not in any way militate against the view I have expressed above; form has never been laid down that, where the Registrar refuses to extend the time and records an order of refusal accordingly, the ordinary remedy by suit in the Civil Court to compel registration will not lie, though it has been held in *Gangava v. Sayava*, 21 Bom., 699, that no suit lies under section 77 against an order made under s. 24 refusing to direct a document to be accepted for registration.

No suit will lie for compelling the registration of a document which has not been presented to a registering officer, whether such registration be by law compulsory or optional, for in the former case the contract is not complete until registration is effected, and in the latter the ordinary remedy for recovery on an unregistered contract will lie as soon as the debt becomes due. *Prabhuram Hasra v. Robinson*, 3 B. L. R., Ap., 29; *Guru Prasad Roy v. Dhunput Singh*, 5 B. L. R. Ap., 46. A suit lies against a vendor and another for recovery and registration of a document wrongfully taken back from Registrar upon such Registrar's refusal to register the same on account of certain false statement made by the parties objecting to the registration. *Mitter Sein v. Narain Singh*, 1 N. W., 206. Ed. 1873, p. 289.

The following more recent cases on the question of Limitation may be noted, in addition to those already cited.

In *Veerama v. Abbiah*, 18 Mad., 99, it was held that s. 7 of the Limitation Act is not applicable to suits under s. 77. Hence a suit instituted by a minor to enforce registration more than thirty days after refusal to register is barred.

So too s. 5 of the Limitation Act has been held not to apply, and when the 30 days expire on a day on which the Court is closed a suit instituted on the day on which the Court reopens is barred. *Appa Rau Sanayi v. Krishnamurthi*, 20 Mad., 249. See also 5 C. L. J., 188, above, s. 75.

In *Abdul Ali v. Mirja Khan*, 28 Bom., 8, it was held that the expression "making of the order" in s. 77 means not only recording the order of refusal in

PART XIII. writing but communicating it to the party concerned, so as to bind him by it, 30 days run from the date of communication.

Fees for Registration Searches and Copies.

S. 78.

The Allahabad Court has held contrary to the Madras that section 5 of the Limitation Act does apply to suits under s. 77. *Sura Bali Prasad v. Thomas* 28 All., 48, following *Beni Prasad Kuari v. Dharaka Rai*, 23 All., 277.

The Calcutta High Court has further held that section 14 of the Limitation Act has no application to a suit under s. 77 and that an application for review to the Registrar does not save limitation; the suit must be brought within 30 days from the date of the dismissal of the appeal to the Registrar.

Nogendra Nath Mullick v. Mathura Mohun Parhi, 18 Cal., 368, followed in principle; *Veeramma v. Abbiah* (above), and *Girija Nath Roy v. Patani Bibi*, 17 Cal., 263, referred to; *Khetter Mohun Chuckerbutty v. Dinabashy Shaha*, 10 Cal., 265, discussed; *Abdul Hakim v. Latifunessa Khatun*, 30 Cal., 532; s. c. 7 C. W. N., 550.

PART XIII.

OF THE FEES FOR REGISTRATION, SEARCHES AND COPIES.

78. Subject to the approval of the Governor-General

Fees to be fixed by
Local Government.

in Council, the Local Government shall prepare a table of fees payable—

- (a) for the registration of documents;
 - (b) for searching the registers;
 - (c) for making or granting copies of reasons, entries or documents, before, on or after registration;
- And of extra or additional fees payable—
- (d) for every registration under section 30;
 - (e) for the issue of commissions;
 - (f) for filing translations;
 - (g) for attending at private residences;
 - (h) for the safe custody and return of documents; and
 - (i) for such other matters as appear to the Local Government to be necessary to effect the purposes of this Act.

79. A table of the fees so payable shall be published in the official Gazette, and a copy thereof in English and the vernacular language of the district shall be exposed to public view in every registration office.

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Fees for Registration,
Searches and
Copies.
Ss. 79-81.

80. All fees for the registration of documents under this Act shall be payable on the presentation of such documents.

Fees payable on presentation.

A Sub-Registrar was held to be competent for any purpose.....contemplated by the Act XX 1866, to examine any person ; and any statement made by such person before an officer in any proceeding or enquiries under the Registration Act, if intentionally false, rendered such person liable to a criminal prosecution. 6 W. R. Cr. 81.

The endorsement made by the registering officer is admissible in evidence under s. 60 of the Registration Act, to prove that the facts mentioned therein have actually occurred : 3 Ind. Cas. 291.

PART XIV.

OF PENALTIES.

81. Every registering officer appointed under this Act and every person employed in his office for the purposes of this Act, who being charged with the endorsing, copying, translating or registering of any document presented or deposited under its provisions, endorses, copies, translates or registers such document in a manner which he knows or believes to be incorrect, intending thereby to cause or knowing it to be likely that he may thereby cause, injury, as defined in the Indian Penal Code, to any person, shall be punishable with imprisonment for a term which may extend to seven years, or with fine, or with both.

Penalty for incorrectly endorsing, copying, translating or registering documents with intent to injure.

PART XIV
Fees for Re-
gistration
Searches and
Copies.

S. 82.

Penalty for making
 false statement, deli-
 vering false copies
 or translations, false
 personation, and
 abetment.

82. Whoever—

- (a) intentionally makes any false statement, whether on oath or not, and whether it has been recorded or not, before any officer acting in execution of this Act, in any proceeding or inquiry under this Act ; or
 - (b) intentionally delivers to a registering officer, in any proceeding under section 19 or section 21, a false copy or translation of a document, or a false copy of a map or plan ; or
 - (c) falsely personates another, and in such assumed character presents any document, or makes any admission or statement, or causes any summons or commission to be issued, or does any other act in any proceeding or enquiry under this Act ; or
 - (d) abets anything made punishable by this Act ;
- shall be punishable with imprisonment for a term which may extend to seven years, or with fine, or with both.

In *Ramcharan Singh v. K. E.*, 5 C. L. J., 233, criminal proceedings under this clause were stayed pending the disposal of the civil suit under s. 77. Also in *Goberdhon Pramanik v. Iswar Chunder Pramanik*, 5 C. W. N., 44.

It is not necessary that sanction should be given before instituting a charge under section 82 of the Registration Act. *Gopi Nath v. Kuldip Singh*, 1. 1. R., 11 Cal. 566. An enquiry made by a clerk of a registry office with a view to ascertain whether the person who brings a receipt to take back a document, which could not be returned in the first instance, and for which a receipt was accordingly given, is the person in whose possession the receipt ought to be, is an inquiry within the meaning of section, 80, Act VIII of 1871 and consequently within this section. In the matter of the *Petition of Bunwary Poddar*, 23 W. R. Cr., 55. But this ruling does not do away with the registering officer's personal responsibility under para 60 of the Rules and Circular Orders, for the proper identification of persons producing receipts.

The presentation of an appeal to the Special Sub-registrar (now District Sub-Registrar), after the time limited therefor, does not give any *locus standi* for the institution of a proceeding for enquiry as to the execution of the document.

and no prosecution should be ordered on such enquiry. *Sukanbari Debi v. Adaitva Ganguly*, 12 C. W. N., 47.

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Fees for Regis-
tration Searches
and Copies.

The intention to defraud is not a necessary ingredient to this offence. It was held more than once under the older Acts that where there was no proof of fraud the conviction would lie under the sections corresponding to this section and not under the Indian Penal Code.

Sec. 83, 84.

Section 205 of the Indian Penal Code is, however, like this section, quite independent of the question of fraud, and it is therefore an open question whether the personation of an imaginary person, about which the rulings under section 205 of the Indian Penal Code are conflicting, is an offence under this section or not.

As to misjoinder of charges under this section, it has been held that forging and presenting a deed for registration cannot be joined as parts of the same transaction. *Birendra Lal Bhaduri v. Emperor*, 30 Cal., 822 : s. c. 7 C. W. N., 639.

Section 29 of the Code of Criminal Procedure, 1882, does not affect the jurisdiction given to a Second Class Magistrate by section 83 of the Registration Act, 1877, as amended by Act XII of 1879. *Queen-Empress v. Krishna I. L. R.*, 7 Mad., 347.

83. (1) A prosecution for any offence under this Act

Registering officer
may commence prosecutions.

coming to the knowledge of a registering officer in his official capacity may be commenced by or with the permission of

the Inspector General, the Branch Inspector General of Sindh, the Registrar or the Sub-Registrar, in whose territories, district or sub-district, as the case may be, the offence has been committed.

(2) Offences punishable under this Act shall be triable by any Court or officer exercising powers not less than those of a Magistrate of the second class

(Substituted by Act XII of 1891 for the old clause in Act III of 1877)

This clause and the proviso above it have now been repealed by the Consolidating Act of 1908.

Jurisdictions :—A Magistrate may prosecute a person under s.s. 93 & 94 of the Indian Registration Act even if he started the prosecution in his capacity of a Sub-registrar. *Iveen v Hiralal* 8 B. L. R 422 ; (Sc.) 17 W. R. Cr. 39. see also *Krishna I. L. R.* 7 Mad. 347 ; 13 W. R. Cr. 21 ; 10. W. R. Cr. 5. A Magistrate has full power to entertain and finally adjudicate on the charge and is not bound to commit to the sessions. *Shanoollah* 13 W. R. Cr. 21. *Samdhary Sing* 10 W. R. Cr. 5.

84. (1) Every registering officer appointed under this

Registering officers
to be deemed public
servants.

Act shall be deemed to be a public servant within the meaning of the Indian Penal Code.

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Miscellaneous.
ss. 85-86.

(2) Every person shall be legally bound to furnish information to such registering officer when required by him to do so.

(3) In section 228 of the Indian Penal Code, the words "judicial proceeding" shall be deemed to include any proceeding under this Act.

This section cleared up some confusion which had arisen under section 82, Act VIII of 1871. Under that section Sub-Registrar was a public officer, and proceedings before him were judicial proceedings within the meaning of section 228 of the Penal Code, and as he was legally authorised to take evidence, he was a "Court" as defined by the Evidence Act, section 3. *In the matter of the petition Sardhari Lal*, 13 B L R, Ap, 40.

It has been held that a Sub-Registrar not being a "Court" no sanction is necessary from him for instituting a prosecution for forgery. *Queen-Empress v. Subba* 11 Mad. 3. *Queen Empress v. Vythitenga* I. L. R. 11 Mad., 500. *Queen Empress v. Tuija* 12. Bom. 26; *Queen Empress v. Sobhanadri*, I. L. R., 12 Mad., 201.

There is one contrary case, *In re Venkatachala*, I. L. R., 10 Mad., 154, but this is confined to a Sub-Registrar acting under section 41 of the Act and although dissented from in three of the above rulings and explained in the last, it does not appear to have been specially overruled.

The Sub-Registrar at Head Quarters sitting in appeal for the Registrar under section 7 of the Act is, of course, a "Court" since he is acting as Registrar, but it ceases to be a "Court" when not acting under that section.

The amendment of the Code of Criminal procedure by Act XII of 1891 has repealed the last clause of this section, and enacted that when the Local Government so directs, a Registrar or Sub-Registrar is to be deemed to be a "Civil Court" within the meaning of the Code of Criminal procedure, 1882, sections 480 and 482. See *ib.*, section 483.

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MISCELLANEOUS.

85. Documents (other than wills) remaining unclaimed in any registration office for a period exceeding two years may be destroyed.

Destruction of un-
claimed documents.

86. No registering officer shall be liable to any suit, claimed or demand by reason of anything in good faith done or refused in his official capacity.

Registering officer
not liable for thing bona
fide done or refused in
his official capacity.

87. Nothing done in good faith pursuant to this Act or any Act hereby repealed, by any registering officer, shall be deemed invalid merely by reason of any defect in his appointment or procedure.

Nothing so done in-
validated by defect in
appointment or proce-
dure.

Vide, 3 C. L. J., 165, note to s. 30 supra, and 6 C. W. N., 528, note to s. 60.

88. (1) Notwithstanding anything herein contained, it shall not be necessary for any officer of Government, or for the Administrator General of Bengal, Madras or Bombay or for any Official Trustee or Official Assignee, or for the Sheriff, Receiver or Registrar of a High Court, to appear in person or by agent at any registration office in any proceeding connected with the registration of any instrument executed by him in his official capacity, or to sign as provided in section 58.

Registration of docu-
ments executed by
Government officers or
certain public function-
aries.

(2) Where any instrument is so executed, the registering officer to whom such instrument is presented for registration may, if he thinks fit, refer to any Secretary to Government or to such officer of Government, Administrator General, Official Trustee, Official Assignee, Sheriff, Receiver or Registrar, as the case may be, for information respecting the same, and, on being satisfied of the execution thereof, shall register the instrument.

89. (1) Every officer granting a loan under the Land Improvement Loans Act, 1883, shall send a copy of his order to the registering officer within the local limits of whose jurisdiction the whole or any part of the land to be improved or of the land to be granted as collateral security, is situate, and such registering officer shall file the copy in his Book No. 1.

Copies of certain
orders, certificates and
instruments to be sent
to registering officers
and filed.

(2) Every Court granting a certificate of sale of im-
movable property under the Code of Civil Procedure, 1908,

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neous.
S. 89.

shall send a copy of such certificate to the registering officer within the local limits of whose jurisdiction the whole or any part of the immovable property comprised in such certificate is situate, and such officer shall file the copy in his Book No. 1.

(3) Every officer granting a loan under the Agriculturist' Loans Act, 1884, shall send a copy of any instrument whereby immovable property is mortgaged for the purpose of securing the repayment of the loan, and, if any such property is mortgaged for the same purpose in the order granting the loan, a copy also of that order, to the registering officer within the local limits of whose jurisdiction the whole or any part of the property so mortgaged is situate, and such registering officer shall file the copy or copies, as the case may be, in his Book No. 1.

(4) Every Revenue-officer granting a certificate of sale to the purchaser of immovable property sold by public auction shall send a copy of the certificate to the registering officer within the local limits of whose jurisdiction the whole or any part of the property comprised in the certificate is situate, and such officer shall file the copy in his Book No. 1.

The question whether the registration of sale-certificates was compulsory even after the enactment of the second clause above has now been settled by the addition of clause (c) to section 17. It appeared to be sufficiently obvious by the second clause of section 89 provided an alternative procedure which would get rid of the obligation of the parties to have their certificates registered, and this was the opinion of Stuart, C. J., in the case of *Masarat-un-nissa v. Adit Ram*, I. L. R.

* This clause is printed as amended by Act XIX of 1883, sections 2 and 12 printed, General Acts, 1882—84, pt. II, Ed 1885, p. 347.

† These words were substituted for the original words by Act XII of 1879, section 107, printed, General Acts, 1877—81, Ed. 1884, p. 338.

‡ This paragraph was added by Act XII of 1879, section 107, printed, General Acts, 1877—81, Ed. p. 338.

§ This reference to section 316 of Act X of 1877 should now be read as applying to section 316 of Act XIV of 1882—see section 3 of the latter Act. (For Act XIV of 1882 see the revised edition, as modified up to 1st July 1888, published by the Legislative Department.)

¶ This paragraph was added by Act VII of 1886, section 3 (3)' printed, General Acts, 1885—88, Ed. 1889, p. 338.

¶ Printed, General Acts, 1882—84; pt. II, 1885, p. 433.

3 All., 568. The procedure prescribed for the registering officer, however, in filing such copies without endorsement in his Book No. 1 did not appear to be exactly tantamount to registration, and frequent appeals were made to me, as head of the department, to decide this question; the Mofussil Bar appearing to be ignorant of the enactment of clause (e), section 17, which was added to the law by Act VII of 1888.

By section 2, sub-section (d) of the Transfer of Property Act also, the provisions which make registration necessary are not to extend to "any transfer in execution of a decree of a Court of competent jurisdiction."

In a recent ruling in *Sarat Chandra Roy Chowdhry v. Jatindranath Mukerjee* 35, Cal., 614, Brett J. held that Sale certificates that are granted by Collector under the provisions of the Land Acquisition Act are sufficient in themselves to validate the transfer of title from Government to the transferee without being registered.

Exemptions from Act.

90. (1) Nothing contained in this Act or in the Indian Registration Act, 1877, or in Indian Registration Act, 1871, or in any Act thereby repealed shall be deemed to require, or to have at any time required, the registration of any of the following documents or maps, namely:—

Exemption of certain documents executed by or in favour of Government.

- (a) documents issued, received or attested by any officer engaged in making a settlement or revision of settlement; of land-revenue, and which form part of the records of such settlement or
- (b) documents and maps issued, received or authenticated by any officer engaged on behalf of Government in making or revising the survey of any land, and which form part of the record of such survey; or
- (c) documents which, under any law for the time being in force, are filed periodically in any revenue-office by patwaris or other officers charged with the preparation of village-records; or
- (d) sanads, inam, title-deeds, and other documents purporting to be or to evidence grants or assign-

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ments by Government of land or of any interest in land ; or

- (e) notices given under section 74 or section 76 of the Bombay Land-Revenue Code, 1879, of relinquishment of occupancy by occupants, or of alienated lands by holders of such land.

(2) All such documents and maps shall, for the purposes of sections 48 and 49, be deemed to have been and to be registered in accordance with the provisions of this Act.

The Agent to the Governor-General in a letter to the Nawab Bahadur of Murshidabad announced the intentions of the Government as to his position and income, and informed him that he was to have possession of the State lands and jewels. In a suit by the son of the Nawab to recover possession from a person wrongfully in possession of land which was held by the Lower Courts to be portion of such state lands, it was, *inter alia*, objected that the latter required registration. *Held*, that the letter operated as a grant or authority from Government, and was exempt from registration, under the provisions of section 90, clause (d) of the registration Act. *Held*, further that the Commissioners appointed under the Nawab Nazim's Debts Act has jurisdiction to declare the land claimed in the suit to State property, notwithstanding the fact that an alienation of such land had taken place before the date of the Commissioner's award. *Omaao Befian v. The Government of India*, I, L. R., 9 Cal., 704 ; L. R. 10 I. A., 39, followed ; *Hassain Ali v. Chutterpat Singh Dugarh* I. L. R., 19 Cal., 742.

Under the Schedule to Act XXVII of 1868, an Act to exempt certain instruments from the Indian Registration Act of 1866, it was held by the Superintendent and Remembrancer of Legal Affairs, Bengal, that deeds of sale and leases of waste lands are not exempted from compulsory registration. The Schedule was entirely repealed by Act VIII of 1871, and the present section, clauses (a) to (d), substituted. It does not appear that the opinion above expressed is in any way modified by the enactment of the present law unless an actual Government grant is proved.

The question is one of some importance, as the zemindars in the Sunderbuns are in the habit of giving unregistered *amalnamas* which are neither out-and-out grants nor leases, but simple permissions to clear an indefinite amount of jungle land ; and it has been made the subject of complaint to me that when a large portion of land has thus been cleared, the zemindars make settlements with other ryots at a higher rate of rent. How far these allegations are true I am, of course unable to say, but a decision on the question whether these *amalnamas* ought not

For (a), (b) see Act XII of 1879, section 107.

See Act XII of 1891.

† See Act VII of 1886. The Act is to be construed as if the amendments made in it by Act VII of 1886 had been made at the time the Act of 1877 came into force.

to be registered has never, so far as I have been able to discover, been given an adequate protection to the poorest class of cultivator, who is induced to go and clear jungly tracts for the benefit of paying raiyats and their landlords seems to be eminently desirable.

91. Subject to such rules and the previous payment of such fees as the Local Government prescribes in this behalf, all documents and maps mentioned in section 90, clauses (a), (b), (c) and (e), and all registers of the documents mentioned in clause (d,) shall be open to the inspection of any person applying to inspect the same, and, subject as afore-said, copies of such documents shall be given to all persons applying for such copies.

92. All rules relating to registration enforced in Lower Burma prior to the commencement of the Indian Registration Act, 1877, shall be deemed to have had the force of law, and no suit or other proceeding shall be maintained against any officer or other person in respect of anything done under any of the said rules.

Repeals.

93. (1) The enactments mentioned in the schedule as repealed to the extent specified in the fourth column thereof.

Repeals.

(2) Nothing herein contained shall be deemed to affect any provision of any enactment in force in any part of British India and not hereby expressly repealed.

* This reference to British Burma should now be read as referring to Lower Burma, see Act XX of 1896, section 4, in Burma Code. Ed. 1899, p. 364.

THE SCHEDULE.

Repeal of Enactments.

Year.	No.	Short Title.	Extent of Repeal.
1877	III.	The Indian Registration Act, 1877 ...	The whole.
1879	XII.	The Registration and Limitation Acts Amendment Act, 1879 ...	So much as unrepeated.
1883	XIX.	The Land Improvement Loan's Act, 1883	So much of section 12 as is unrepealed.
1886	VII.	The Indian Registration Act, 1886 ...	The whole.
1888	VII.	The Civil Procedurecode Amending Act, 1888	So much as is unrepealed.
1891	XII.	The Amending Act, 1891 ...	In the Second Schedule the entries relating to Act, III of 1877.
1899	XVII.	The Indian Registration (Amendment) Act, 1899	The whole.

APPENDIX I.

Transactions required by other enactments to be carried out by registered instruments.

I. *Under the Transfer of Property Act 1882.*

(i) Sales of tangible immovable property of the value of Rs. 100 and upwards, and of reversions and other intangible things. See s. 54. Transfer of Property Act.

"Sale"—Is a transfer of ownership in exchange for price paid or promised, or part paid and part promised.

In the case of tangible immoveable property of a value less than 100 rupees, such transfer may be made either by a registered instrument or by delivery of the property. Transfer of Property Act, s. 54. A sale of tangible immoveable property under the Transfer of Property Act can be effected only by registered instrument. *Jagodabunda Saha v. Radha Krishna Senl*, 36 Cal. 920.

A reversion or other intangible thing however small its value cannot be sold except under a registered instrument.

A sale of immoveable property can be effected by delivery when the value of the property is less than Rs. 100; and the fact that an unregistered conveyance had been executed, and consideration paid three years before actual physical possession was delivered, will not weaken the effect of the delivery of possession, when a sale has been effected by delivery of possession on an unregistered document which may unnecessarily have been executed, the document can be referred to as evidence of the intention of the parties, 29 Cal. 623. *Bhagabati Swarnakar v. Sakhi Baisnavabai*, 2 India. Case 413.

Decision on the point whether a prior sale under an unregistered deed with possession shall prevail against a registered deed of sale without possession; the value of the property being less than Rs. 100 and its registration being consequently optional. The Calcutta High Court in *Narain Chunder Chuckerburtty v. Duta Ram Roy*, 8 Cal. 597 (F.R.): (S. C.) 10 C. L. R. 241, held "a registered document shall take effect as regards the property therein comprised, against every unregistered document relating to the same property" "and that the only case in which the title of the prior unregistered purchaser can prevail over that of the subsequent registered purchaser for value, is when the latter takes with notice of the former. *Prinsep, J., dissenting*; a purchaser under a registered conveyance subsequently executed cannot succeed in a suit to eject one, who holds possession under a prior but unregistered conveyance, the registration of which is optional. *Per Prinsep, J.*, s. 54, virtually abolishes optional registration so far as sales of immoveable property is concerned, 8 Cal. 597. See also (1898) 20 C. 74 at page 75; 16 Cal. 623; 19 Cal. 623. In 17 Mad. 146 (147), it was held that a registration of a sale deed constitute a sufficient delivery of the deed to pass the interest in the land contained therein.

In 5 A. W. N. 201, it was held there is nothing in s. 54 which would render a sale effected in the second alternative method void by reason of the execution of a non-registered deed of sale; see also *Mukhan Lal v. Banku Behari Ghore*, 19 Cal. 623 at p. 626; see also *Ganga Nairain Gope v. Kali Churn Goala*, 22 Cal. 179.

The sale and delivery of a property exceeding Rs. 100 in value by an unregistered instrument has not the effect of passing the property to the vendee he can only claim the benefit of s. 86 (a) (b) of the Transfer of Property Act. *Karalia Nanabhai v. Munsukram*, 24 Bom. 400; see also *Lolchand Motiram v. Lakshman Sahadu*, 6 Bom. L. R. 510.

A sale has been held to be not complete if in pursuance of an oral contract the vendee is put into possession. *Pupireddi v. Narasareddi*, 16 Mad. 464; see also 5 L. B. R. 6, 2 Ind. Case 350, but even if no instrument is registered the receipt of consideration and putting the vendee into possession has the effect of making the vendor a mere trustee and the property cannot be attached or sold in execution of any decree against the vendor. *Karalia Nanabhai v. Munsukram Vekatchand*, 2 Bom. L. R. 220; 24 Bom. 400. Registration of a deed constitutes sufficient delivery of deed to pass the interest in the land contained therein. *Narain Chunder v. Duta Ram Roy* (8 Cal. 597), followed *Ponnayya Goundan v. Muttu Goundan*, 17 Mad. 146; see *Janki v. Girjadat*, 7 All. 482, as to the exercise of the right of pre-emption.

Intangible property.—The equity of redemption in an usufructuary mortgage is an "intangible thing" within the meaning of s. 54 of the Transfer of Property Act, and its transfer by sale can be made only by a registered instrument even though its value may be less than Rs. 100. The equity of redemption in a simple mortgage may be tangible immoveable property and its sale can be effected, if its value be less than Rs. 100 without a registered instrument by mere delivery of property. The right of simple mortgagee in the property mortgaged is an intangible thing within the meaning of s. 54 of the Transfer of Property Act and the transfer by sale or hypothecation executed to secure a debt under Rs. 100 can be made only by a registered instrument. *Subramaniam v. Perumal Reddi*, 8 Mad. 454; referred to *Ramasami Pattar v. Chinan Aar*, 24 Mad. 449. When the value of the property is less than Rs. 100 and is already in the

sion of the vendee the deed of purchase must be registered otherwise the sale is invalid. *Shibendra Pada Banerji v. Secretary of State*, 34 Cal. 207 ; 5 C. L. J. 390, followed. *Mrinalini Debi v. Mohima Chundra Mitra*, 6 Ind. Cas. 703.

Berar.—In Berar when the consideration for sale is over Rs. 100 the document must be registered under s. 17, Registration Act, 12 Q. L. R. 154 ; 25 W. R. 21 ; 22 Mad. 508 ; 3 Berar L. J. 19, referred to ; 18 Bom 66, distinguished. *Jairam v. Balkrishna Das*, 3 N. L. R. 72.

N. W. P. and Oudh Registration Rules, Section 152. Every available opportunity should be taken of calling attention of the public to the change in the law for the registration of documents affecting immoveable property under s. 54 of Act IV of 1882, which came into force on the 1st July 1882.

Nota.—In exercise of the power conferred by section 1 of the Transfer of Property Act, 1882, the Governor-General in Council is pleased to extend the said Act, as amended by Act III of 1885, to the whole of the territories other than the Scheduled Districts under the administration of the Government of Bombay, with effect on and from 1st January 1893, B. G. Notn. No. 5947, B. G. G. 1882, Pt. I, p. 1071. The Act is also extended with effect from 1st January 1893 to the area included within the local limits of the Ordinary Civil Jurisdiction of the Recorder of Rangoon.—Burma Gazette, 1892, Pt. I, p. 373.

Ss. 54, paras 2 and 3, 59, 107 and 123 have been extended to every cantonment in British India by the Cantonments Act XIII of 1889, s. 32.

ii. Mortgage of immoveable property to secure the payment of money amounting to Rs. 100 or upwards.

Section 59. *Mortgages when to be by assurance.*—Where the principal money secured is one hundred rupees or upwards, a mortgage can be effected only by a registered instrument signed by the mortgagor and attested by at least two witnesses.

Where the principal money secured is less than one hundred rupees a mortgage may be effected either by a registered instrument signed and attested as aforesaid or (except in the case of a simple mortgage) by delivery of the property.

Nothing in this section shall be deemed to render invalid mortgages made in the towns of Calcutta, Madras, Bombay, Karachi, Rangoon, Moulmein, Bassein and Akyab by delivery to a creditor or his agent of documents of title to immoveable property with intent to create a security thereon.

This section has been amended in 1907. Now simple mortgage whatever the consideration sum requires registration. In other case it may be effected either by a registered instrument or by entering into possession.

In determining the registrability of an instrument of mortgage the principal sum has alone to be looked to, and not interest.

Bengal Tenancy Act.—A mortgage of a permanent tenure can only be effected by a registered instrument whether the amount secured be greater or less than Rs 100 (sec. 12, Bengal Tenancy Act). *Soshi Bhusan Bose v. Shahadeb Shaha*, 3 C. W. N. 46.

iii. Lease of immoveable property.

Section 107. *Leases how made.*—A lease of immoveable property from year to year or for any term exceeding one year or re-

serving a yearly rent, can be made only by a registered instrument. All other leases of immoveable property may be made either by a registered instrument or by an oral agreement accompanied by delivery of possession. Provided that the Local Government may with the previous sanction of Governor-General in Council from time to time by notification in the Local Official Gazette direct that leases of immoveable property other than leases from year to year or for any term exceeding one year or reserving a yearly rent or any class of such leases may be made by unregistered instrument or by oral agreement without delivery of possession.

Exemption of leases for agricultural purposes.—None of the provisions of this chapter apply to leases for agricultural purposes except in so far as the Local Government with the previous sanction of the Governor-General in Council may by notification published in the Local Official Gazette declare all or any of such provisions to be so applicable in the case of all or any of such leases, together with or subject to those of the local law (if any) for the time being in force. Such notification shall not take effect until the expiry of six months from the date of publication.

Although sec. 18 of the Registration Act in so far as it declares registration of leases for any term not exceeding one year to be optional, yet sec. 107 of the Transfer of Property Act seems to have abrogated it, inasmuch if a lease for a term not exceeding one year is effected by an instrument in writing that document though optionally registrable under sec. 107 of the Transfer of Property Act must be registered.

A lease of immoveable property from year to year for any term exceeding one year or reserving a yearly rent can be made only by a registered instrument.

Leases of immoveable property may be made either by a registered instrument or by oral agreement accompanied by delivery of possession. Provided that the Local Government may with the previous sanction of the Governor-General in Council from time to time by notification in the Local Official Gazette notify that leases of immoveable property other than leases from year to year or for any term exceeding one year or reserving a yearly rent or any class of such leases may be made by an unregistered instrument, B. G. Notn. No. 434A of 1910.

Leases for agricultural purpose are excepted from the provisions of this Chapter. But the provisions may apply to leases for agricultural purposes except in so far as the Local Government with the previous sanction of the Governor-General in Council may by notification published in the Local Official Gazette, declare all or any of such provisions to be applicable in the case of all or any of such leases together with or subject to those of the local law (if any) for the time being in force.

Leases of immoveable property other than leases from year to year or for any term exceeding one year or reserving a yearly rent may be made by unregistered instrument, B. G. Notn. No. 4201, 23rd May 1905; B. G. G. 1905, Pt. 1, p. 624. Superseded by B. G. Notn. No. 434A, 17th Jan. 1910; B. G. G. 1910, Pt. I, p. 59.

Elsewhere than in the Province of Sindh leases of immoveable property other than leases from year to year or for any term exceeding one year, or reserving a yearly rent, may be made by unregistered instrument or by oral agreement without delivery of possession. Notn. No. 12501 of 1908 (B. G. G. 1908, Pt. I, pp. 1216-7).

See also B. G. Notn. No. 434A, dated 17th Jan. 1910, Pt. I, p. 59. The provisions of sec. 107 of the Transfer of Property Act shall with effect from the 1st day of August 1910 be applicable to leases for agricultural purposes of immoveable property in the

following areas :—The Mohim, Bassein, and Salsette Talukas of the Thana district. (2) The Pen and Panwal Talukas of the Kolaba district. B. G. Notn. No. 434, 17th Jan. 1910. (B. G. G. 1910, Pt. I, p. 59).

iv. Gift of immoveable property.

Section 122. *Gift defined.*—Gift is the transfer of existing moveable or immoveable property made voluntarily and without consideration, by one person called the *donor* to another, called the *donee* and accepted by or on behalf of the *donee*.

Acceptance when to be made.—Such acceptance must be made during the life-time of the donor and while he is still capable of giving.

If the *donee* dies before acceptance the gift is void.

Section 123. *Transfer by gift how effected.*—For the purpose of making a gift of immoveable property, the transfer must be effected by a registered instrument signed by or on behalf of the donor and attested by at least two witnesses.

For the purpose of making a gift of moveable property, the transfer may be effected either by registered instrument signed as aforesaid or by delivery.

Such delivery may be made in the same way as goods sold may be delivered.

When two persons mutually transfer the ownership of one thing for the ownership of another neither things or both things being money only the transaction is called an exchange.

A transfer of property in completion of an exchange can be made by in manner provided for the transfer of such property by sale. *Vide* sec. 118 of T. P. Act.

Section 129. *Saving of donations mortis cause and Mahomedan law.*—Nothing in this Chapter (i.e., Chapter VII) relates to gifts of moveable property made in contemplation of death or shall be deemed to affect any rule of the Mahomedan law or save as provided by section 123 any rule of Hindu or Buddhist law.

v. Exchange of immoveable property.

A transfer of property in completion of an exchange can be made only in manner provided for the transfer of such property by sale.

II. The Transfer of Property (Amendment) Act (VI of 1904).

Received the Assent of G. G on the 11th March 1904.

Whereas it is expedient further to amend the Transfer of Property Act, 1882: It is hereby enacted as follows :—

1. *Short title.*—This Act may be called the Transfer of Property (Amendment) Act, 1904.

2. *Amendment of Sec. 1, para. 4, Act IV of 1882.*—In the fourth paragraph of Sec. 1 of the said Act after the words "extend this Act" the words "or any part thereof" shall be inserted.

3. *Amendment of Sec. 59, Act IV of 1892.*—In the second paragraph of Sec. 59 of the said Act for the words "An Instrument" the words "a registered Instrument" shall be substituted.

4. *Amendment of last para. of Sec. 59 and of Sec. 69, Act IV of 1882.*—In the last para. of Sec. 59 and in clause (c) of Sec. 69 of the said Act for the words "and Rangoon" and for the words "or Rangoon" the words "Rangoon, Moulmein, Bassein and Akyab" and the words "Rangoon, Moulmein, Bassein or Akyab" shall be respectively substituted.

5. *Substitution of new para. for second para. of Sec. 107, Act IV of 1882.*—For the second para. of Sec. 107 of the said Act the following para. shall be substituted, namely :—See the para. *ante*.

6. *Amendment of Sec. 117 Act IV of 1882.*—In Sec. 117 of the said Act after the words "to be so applicable" the words "in the case of all or any of such leases" shall be inserted.

III. The Indian Trusts Act (II of 1882).

5. *Trust of Immoveable Property.*—No trust in relation to immoveable property is valid unless declared by a non-testamentary instrument in writing signed by the author of the trust or the trustee and registered or by the will of the author of the trust or of the trustee.

Trust of Moveable Property.—No trust in relation to moveable property is valid unless declared as aforesaid or unless the ownership of the property is transferred to the trustee.

These rules do not apply where they would operate so as to effectuate a fraud.

IV. The Indian Easements Act (V of 1882).

47. *Extinction by non-enjoyment.*—A continuous easement is extinguished when it totally ceases to be enjoyed as such for an unbroken period of twenty years.

A discontinuous easement is extinguished when for a like period it has not been enjoyed as such.

Such period shall be reckoned in the case of a continuous easement from the day on which its enjoyment was obstructed by the servient owner or rendered impossible by the dominant owner and in the case of a discontinuous easement from the day on which it was last enjoyed by any person as dominant owner.

Provided, that if in the case of a discontinuous easement the dominant owner within such period registers under the Indian Registration Act, 1877, a declaration of his intention to retain such easement, it shall not be extinguished until a period of twenty years has elapsed from the date of the registration.

V. The Dekhan Agriculturists Relief Act (XVII of 1879).

An Act for the relief of indebted agriculturists in certain parts of the Dekhan.

Preamble.—Whereas it is expedient to relieve the Agricultural classes in certain parts of the Dekhan from indebtedness. It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

1. *Short title.*—This Act may be cited as “The Dekhan Agriculturist’s Relief Act, 1879, commencement—And it shall come into force on the first day of November 1879.

Local extent.—“This section and sections 11, 56, 60 and 62 extend to the whole of British India. The rest of the Act extends only to the Districts of Puna, Satara, Sholapur and Ahmadnagar.

CHAPTER VIII.

REGISTRATION BY VILLAGE-REGISTRARS.

55. *Appointment of Village-Registrars.*—The Local Government may from time to time,—

(a) Appoint such persons as it thinks fit, whether public officers or not to be Village-Registrars for such local areas as it may from time to time prescribe.

(b) Direct the Village-Registrar for any local area to discharge the functions of a Village-Registrar for any other local areas concurrently with the Village-Registrars of such other local areas ; and

(c) Delegate to any person by name or in virtue of his office the powers conferred on it by this section.

And may cancel any such appointment direction or delegation.

56. *Instruments executed by Agriculturist not to be deemed valid unless executed before a Village-Registrar.*

No instrument which purports to create, modify, transfer, evidence or extinguish an obligation for the payment of money, or a charge upon any property or to be conveyance or lease and which is executed after this Act comes into force by an Agriculturist residing in any local area for which a Village-Registrar

has been appointed shall be admitted in evidence for any purpose by any person having by law or consent of parties authority to receive evidence or shall be acted upon by any such person or by any public officers unless such instrument is written by or under the superintendence of and is attested by a Village-Registrar.

Provided that nothing herein contained shall prevent the admission of any instrument in evidence in any criminal proceeding "or apply to any instrument which is executed by agriculturist merely as a surety" or to any instrument required by section 17 of the Indian Registration Act, 1877, to be registered under that Act.

57. *Such instruments to be written by or under the superintendence of a Village-Registrar and executed in his presence.*—When any person intends to execute any instrument to which section 56 applies, all such persons shall appear before the Village-Registrar appointed for the area in which the agriculturist, or when there are several agriculturists intending to execute the instrument any one of such agriculturist resides, any such Registrar after satisfying himself in such manner as he deems fit as to the identity of the intending executants and receiving the fee (if any) prescribed by the Local Government in this behalf and the stamp (if any) which may be required by law shall write the instrument or cause the same to be written under his superintendence; and after reading the same aloud or causing it to be so read in the hearing of the intending executants, shall require them to execute it in his presence.

Attestation of such instrument.—Every instrument so written and executed shall at the time of execution be attested by the Village-Registrar; and also if any of the executants thereof is unable to read such instrument by two respectable witnesses.

For the purposes of this section every executant of any such instrument shall appear in person before the Village-Registrar but every other party thereto may appear either in person or by an agent being his relative servant or dependant, when he has duly furnished with a power-of-attorney executed and authenticated in such manner as the Local Government may from time to time by rule prescribe authorising him to appear and act on his behalf.

58. *Registration of instruments by Village-Registrar.*—Every Village-Registrar shall keep a register of instruments executed before him in such form as shall from time to time be prescribed by the Inspector-General of Registration.

As soon as all the intending executants have executed any instrument before a Village-Registrar he shall make a copy of it or cause a copy of it to be made in his register and shall deliver.

the original instrument to the party entitled to the custody of the same (and a certified copy thereof to the other party or to each of the other parties if there be more than one).

Previous to delivery the original instrument (and each such copy) shall be endorsed under the Village-Registrar's signature with the date of registration the name and residence of the Village-Registrar and the volume and page of the register in which the instrument has been registered. A certified copy of any entry in the register shall be granted by the Village-Registrar free of charge on the application of any party to the instrument to which the entry relates or of his agent or representative and the copy shall be admissible as evidence of the contents of the instrument.

59. *Consideration to be fully stated in every instrument executed before a Village-Registrar*—In every instrument written by or under the superintendence of the Village-Registrar, the amount and nature of the consideration if any shall be fully stated. The Village-Registrar shall also endorse upon the instrument a note under his hand recording whether or not the transfer of the consideration stated therein or of any part thereof took place in his presence.

Previous instruments to be produced.—If the instrument modifies or wholly or partly supersedes a previous instrument such previous instrument shall be produced before the Village-Registrar and shall be fully described in the instrument to be executed, and shall be marked by the Village-Registrars under his hand for the identification.

60. *Registration under this Act to be deemed equivalent to Registration under Indian Registration Act, 1877*—Every instrument executed and registered in accordance with the foregoing provisions shall be deemed to have been duly registered under the provisions of the Indian Registration Act, 1877, and no instrument which to have been executed before a Village-Registrar but has been otherwise executed, shall be registered by any officer acting under the said Act or in any public office or shall be authenticated by any public officer.

[*See Mahadu Ganu v. Bayaji*, 19 Bom. 239].

61. *Village-Registrars to be subordinate to the Inspector-General of Registration*—The Inspector-General of Registration shall exercise by himself and his subordinates a general superintendence over all Village-Registrars or may from time to time with the previous sanction of the Local Government make rules consistent with this Act for regulating their proceedings and for providing for the custody of their records.

62. *Exemption of Instruments to which Government or any officer of Government is a party.*—Nothing in this Act shall be deemed to require any instrument to which the Government or any officer of Government in his official capacity is a party, to be executed before a Village-Registrar.

63. *Power of Local Government to make rules.*—The Local Government may, from time to time, make rules regulating the appointment, suspension, dismissal and remuneration of Village-Registrars and prescribing the fees to be levied by them.

**Registration of Instruments referred to in Section 17 of the Indian
Registration Act 1877.**

CHAPTER VIII.

63 (4). *Mode of execution by agriculturists of instruments required to be registered under Act III of 1877.*—(1) When an agriculturist intends to execute any instrument required by section 17 of the Indian Registration Act, 1877, to be registered under that Act he shall appear before the Sub-Registrar within whose sub-district the whole or some portion of the property to which the instrument is to relate, is situate, and the Sub-Registrar shall write the instrument, or cause it to be written, and require it to be executed, attest, it, and, if the executant is unable to read the instrument cause it to be further attested and otherwise act in accordance with the procedure prescribed for a Village-Registrar by sections 57 and 59 of this Act, and shall then register the instrument in accordance with the provisions of the Indian Registration Act, 1877.

(2) An instrument to which sub-section (1) applies shall not be effectual for any purpose referred to in section 49 of the Act last mentioned, unless it has been written, executed, and attested in the manner provided in that sub-section.

VI. The Indian Contract Act (IX of 1872).

25. An agreement made without consideration is void unless it is expressed in writing and registered under the law for the time being in force for the registration of documents and is made on account of natural love and affection between parties standing in a near relation to each other.

VII. The Specific Relief Act (I of 1877).

39. Any person against whom a written instrument is void or voidable, who has reasonable apprehension that such instrument, if left outstanding, may cause him serious injury,

may sue to have it adjudged void or voidable, and the Court may, in its discretion, so adjudge it, and order it to be delivered up and cancelled.

If the instrument has been registered under the Indian Registration Act, the Court shall also send a copy of its decree to the officer in whose office the instrument has been so registered, and such officer shall note on the copy of the instrument contained in his books the fact of its cancellation.

See *Mohim Chunder v. Jugul Kishore* (7 Cal. 736) and *Gobind Rai v. Dharam Dass* (1 All. W. N. 138) and *Bhawar Rai v. Jahandar Khan* (9 All. W. N. 147).

VIII. The Cantonments Act (XIII of 1889).

[The second paragraph of section 9 of the Indian Registration Act, 1877, has been repealed by s. 2 and Schedule of this Act].

32. *Registration.*—(1) Section 54, paragraphs two and three, and sections 59, 107, and 123 of the Transfer of Property Act, 1882, with respect to the transfer of property by registered instrument, shall, on and from, the commencement of this Act, extend to every cantonment in British India.

(2) Where a cantonment has not been constituted a sub-district or district for the purposes of the Indian Registration Act, 1877, under section 9 of that Act, the Registrar of the district in which the cantonment is situated shall cause a copy of such entries in indexes Nos. I and II as relate to immoveable property within the limits of the cantonment to be forwarded to the Cantonment Magistrate annually, or at such shorter intervals as the Local Government may prescribe.

IX. The Indian Stamp Act (II of 1899).

35. *Instruments not duly stamped shall not be registered.*—No instrument chargeable with duty shall be admitted in evidence for any purpose by any person having by law or consent of parties authority to receive evidence, or shall be acted upon, registered, or authenticated by any such person or by any public officer, unless such instrument is duly stamped:

[*Impounding of documents.*—Under section 33 of the same Act a registering officer, being a person in charge of a public office, shall impound a document presented for registration, if it is not duly stamped.

Stamp-duty on power-of-attorney.—Under Schedule I of the same Act, Art. 48, the stamp-duty on a power-of attorney, when executed for the sole purpose of procuring the presentation of one or more documents for the registration in relation to a single transaction, is eight annas].

A registering officer, who, under s. 33 of the Stamp Act (II of 1899), finds an instrument to be "not duly stamped" must impound it and send it to the Collector under the second clause of s. 38. The mere return or rejection of the document is not a proper compliance with the law.—*Punjab Stamp Manual*, 1888, p. 49, para. 67.—*Punj. Regn. Rule*, No. 41.—*N. W. P. and Oudh Regn. Rule*, No. 78, quoted by D. Narotom.

X. The Indian Limitation Act (IX of 1908).

Limitation for a suit to enforce a right of pre-emption.—

Under Schedule I, Art. 10 of this Act, the period of limitation for a suit to enforce a right of pre-emption, whether the right is founded on law or general usage or on special contract, is one year from the time when the purchaser takes, under the sale sought to be impeached, physical possession of the whole of the property sold, or where the subject of the sale does not admit of physical possession, when the instrument of sale is registered.

Limitation for a suit on a registered contract.—Under Art. 116 of the same Schedule, the period of limitation for a suit for compensation for the breach of a contract in writing registered is six years commencing from the time when the period of limitation would begin to run against a suit brought on a similar contract not registered.

Limitation for application for execution of decree or order where a certified copy has been registered.—Under Art. 179 of the same Schedule, the period of limitation for an application for the execution of a decree or order of any Civil Court not provided for by Art. 183, or by the Code of Civil Procedure (V of 1908), section 48, is six years, where a certified copy of the decree or order has been registered.

Art. 116.—Suit for rent.—In a suit for rent accrued due more than three years before suit the contract between the landlord and tenant being on a registered document which was signed only by the latter. *Held*, that the suit was not barred by limitation.—*Ambalavana Pandaram v. Vaguram* (19 Mad. 52). So also a suit for rent for a period of six years by an *ijaradar* upon the basis of a *kabuliat* was held was not to be barred by limitation.—*Umrao Bibi v. Mahomed Rojubi* (27 Cal. 205).

Suit for arrears of rent on a registered contract.—A suit to recover arrears of rent upon a registered contract is governed by Art. 116, Sch. II, of the Limitation Act.—*Umesh Chunder v. Adarmoni Dasi* (15 Cal. 221).

Suit to recover rent on a registered lease.—A suit to recover rent based upon a registered lease is governed as to limitation not by Art. 116, but by Art. 110 of the Limitation Act.—*Ram Narain v. Kamta Singh* (23 All. W. N. 210; 26 All. 138). Suit based on a registered contract.—Art. 110 is applicable to suits for rent generally, but Art. 116 specially provides for a suit which is based on a contract in writing registered including a lease, 3 Mad. 77; 15 Cal. 221, followed.—*M. Chengiah v. Umadai Rajah* (7 M. L. T. 419).

Art. 116.—Suit for breach of contract.—On a registered sale-deed, *held*, that the suit as regards limitation was governed by Art. 116 of the Second Schedule of Act XV of 1877, and not by Art. 65, *Kishen Lal v. Kinlock* (3 All. 712) referred to.—*Antenat Bibi v. Ajudhia* (18 All. 160).

Art. 116.—Suit for compensation for the breach of a contract in writing registered.—A deed of sale of immoveable property, duly registered, contained a covenant to the effect that in the event of the purchaser losing any part of the property in any other

way, he would be entitled to a refund of the consideration and to damages. The purchaser, failing to get possession of part of the property purchased, sued for possession, or in the alternative, for a refund of a proportionate part of the consideration money and damages. *Held*, that as regards the latter relief the suit was governed by Art. 116, and not by Art. 97, of the Second Schedule to the Indian Limitation Act, 1877.—*Mul Kunwar v. Chatter Singh* (28 All. W. N. 185).

Art. 116.—Breach of covenant contained in a registered sale-deed.—Art. 116 and not 97, Sch. II, of the Limitation Act, governed the suit, and the suit could be brought within six years from the date of dispossession. 5 All. L. J. 410 followed. 28 Bom. 750 referred to.—*Ram Jaggi Rai v. Kaulashar Rai* (28 All. W. N. 185 note).

Suit for mortgage-money by mortgagee for disturbance of possession.—The defendants demised certain land to the plaintiff under a registered kanon deed in 1888. The plaintiff was evicted in 1893. He now sued in 1896 to recover the amount of the kanon. *Held*, that the period of limitation applicable to the suit was six years, and that the suit was not barred by limitation.—*Unichaman v. Ahmed Kutti Koyi* (31 Mad. 243).

Registered partnership-deed.—Suit for account after dissolution of partnership.—A suit for an account of a partnership dissolved more than three years before the filing of the plaint is barred by limitation, even if the instrument of partnership was registered.—*Vairavan Asari v. Ionnayya* (22 Mad. 14).

Mortgage-bond—Money-decree.—See *Surja Prasad v. Golab Chand* (27 Cal. 762.)

Suit for account.—Where an agency is created by means of a registered *kabuliyat*. *Mati Lal Bose v. Amin Chand Chattopadhyaya* (1 Cal. L. J. 211).

Registered pottah—Suit for damages.—A suit to recover damages for breach of covenants contained in a lease, the terms of which were embodied in a registered pottah executed by the lessor only, is governed by Art. 116 of Sch. II of the Limitation Act. 19 Mad. 52; 25 Mad. 50; 25 M.W. 587 relied on. 3 Bom. L. R. 687 dissented from.—*Krish Chandra Das v. Kunjo Behari Mulo* (12 Cal. W. N. 628; 9 Cal. L. J. 1; 35 Cal. 683).

Registered bond payable by instalments.—Whole amount due on default.—Period of six years' limitation begins to run from the date of default. 3 All. 60, F. B.; 30 All. 400 followed.—*Kamta Purshad v. Mt. Muni Bibi* (1 Ind. Cas 570).

Suit upon a covenant in a registered deed of exchange.—See *Srinivasa Raghava Dikshidar v. Ranganarayana Iyengar* (18 M. L. J. R. 447; 5 M. L. T. 211; 31 Mad. 452).

Contract in writing registered signed by one party thereto.—*Kotappa v. Vallur Annimindar* (25 Mad. 50).

Art. 116.—Where there is a contract in writing and registered, Art. 116 applies in case of a breach, and the time runs from the breach, i.e., the date of eviction. Art. 36 applies to cases independent of contract.—*Gurlingaya v. Nagappa* (P. J. 1896, p. 21).

Registered bond—Arrears of interest.—Six years' arrears of interest are recoverable on a registered bond.—*Amritran v. Vasudev* (P. J., 1882, p. 291).

Money advanced to a minor under a registered bond.—The plaintiff lent some money under a registered bond to the guardian of a minor to meet the expenses of a litigation in which the minor was concerned, and brought the present suit to recover the money against the minor, after the expiration of three years from the date when the loan was made. *Held*, that the claim was barred under Art. 57 of the Limitation Act, 1877, and the registration of the bond could not extend the period of limitation against the minor.—*Anjuman Ara Begam v. Nawab Anjuman Ara Begam* (10 O. C. 38).

XI. The Religious Societies Act (I of 1880).

3. **Appointment of new trustees.**—Every appointment of new trustees under section 2 shall be made to appear by some memorandum under the hand of the Chairman for the time being of the meeting at which such appointment is made.

Such memorandum shall be in the form set forth in the schedule hereto annexed, or as near thereto as circumstances allow, shall be executed and attested by two or more credible witnesses in the presence of such meeting, and shall be deemed to be a memorandum of which the registration is required by the Indian Registration Act, 1877, section 17.

XII. The Madras Partition Act. (II of 1884).

An Act to give effect to certain unregistered instruments of partition relating to immoveable property in the Madras Presidency, and to remove doubts as to the titles conferred thereby.

WHEREAS it is expedient to give effect to certain unregistered instruments of partition relating to immoveable property in the Madras Presidency, and to remove doubts as to the titles conferred thereby :

It is hereby enacted as follows :—

1. *Certain unregistered instruments of partition to have same force and effect as registered instruments.*—Notwithstanding anything contained in any Act contrary, instruments of partition relating to immoveable property in the Madras Presidency, which have been executed before the passing of this Act, and have not been registered, shall have the same force and effect as if they had been registered under the law in force at the time when they were executed :

Provided that this Act shall not—

(a) apply to any unregistered instrument of partition which has been superseded by an instrument of partition duly registered, or

(b) affect the title of a transferee for value in good faith of property, whether he has or has not had notice of an unregistered instrument of partition relating to that property, or

(c) affect any right established by a final decree of a Court of competent jurisdiction.

2. *Compensation to person deprived of right owing to transfer under s. 1, cl. (b).*—When any person to whom any right has accrued on the partition, or any person claiming under that person has, by any such transfer as is mentioned in section 1, clause (b), been deprived of any right created by the partition, he shall be entitled to recover compensation in damages from any sharer who has directly caused such privation of right, or if the sharer is dead from his assets :

Provided that suit be brought (within three years after the date on which this Act comes into force, or) within three years from the date of the transfer (if the transfer is made after this Act comes into force).

XIII. The Bengal Tenancy Act (VII of 1885).

An Act to amend and consolidate certain enactments relating to the Law of Landlord and Tenant within the territories under the administration of the Lieutenant-Governor of Bengal.

12. *Voluntary transfer of permanent tenure.*—(1) A transfer of a permanent tenure by sale, gift, or mortgage (other than a transfer by sale in execution of a decree, or by summary sale under any law relating to patni or other tenures, can be made only by a registered instrument.

(2) A registering officer shall not register any instrument purporting or operating to transfer, by sale, gift, or usufructuary mortgage, a permanent tenure, unless there is paid to him, in addition to any fees payable under the Act for the time being in force for the registration of documents, a process fee of the prescribed amount and a fee (hereinafter called "the landlord's fee") of the following amount, namely :—

Release by co-sharer.—*Registration.*—*Non-payment of landlord's fee.*—Certain co-sharers in a permanent tenure by a deed, dated 2nd Dec. 1893, which was registered in Book I, under s. 51 of the Registration Act, relinquished all their right, title and interest and claim in the tenure in favour of the remaining co-sharer who, it was stipulated, was to remain in possession and was to be entitled to sell the tenure. He was also to pay certain debts mentioned in the deed for which the other co-sharers were to be under no liability. The deed was stamped with a five rupee stamp as a release. No landlord's fee was paid as required by s. 12 of the Bengal Tenancy Act. *Held*, that the deed was a transfer within the meaning of s. 12 of the Bengal Tenancy Act and the transfer was complete as soon as the document was registered. The non-payment of landlord's fee did not render the transfer invalid owing to the operation of s. 1 of Act 1 of 1903 (B. C.). *Held*, further, that the liability of the co-sharers under the lease ceased with the transfer. 16 Cal. 642 and 19 Cal. 17 followed.—*Hemendra Nath Mukerji v. Kumar Nath Roy* (12 Cal. W. N. 478).

(a) when rent is payable in respect of the tenure a fee of two percentum on the annual rent of the tenure : Provided that no such fee shall be less than one rupee or more than one hundred rupees ; and

(b) when rent is payable in respect of the tenure, a fee of two rupees ; together with the costs necessary for the transmission of the landlords' fee to the landlord.

(3) when the registration of any such instrument is complete the registering officer shall send to the Collector the landlords' fee, the cost necessary for the transmission of the same and a notice of the transfer and registration in the prescribed form, and the Collector shall cause the fee to be transmitted to, and the notice to be served on, the landlord named in the notice in the prescribed manner.

The transfer is complete as soon as the document is registered.—*Kristo Bullub v. Kristo Lal*, 16 Cal. 642. The provisions of section 59 of the Transfer of Property Act must be held to be subject to this section and therefore a mortgagee of a permanent tenure not exceeding Rs. 100 in value can only be effected by a registered instrument, *Soshi Bhushan v. Mahadeb* 2 C. W. N. 499 ; see also *Sibendrapada v. Secretary of State* 5 C. L. J. 390. Mere registration of a deed does not operate to pass title.—*Sheo Nandan Singh v. Darburi Mahlon*, 2 C. W. N. 257.

Section 18. *Incidents of holding at fixed rates.* A raiyat holding at a rent, or rate of rent, fixed in perpetuity.

(a) shall be subject to the same provisions with respect to the transfer of, and succession to, his holding as the holder of a permanent tenure, and

(b) shall not be ejected by his landlord, except in the ground that he has broken a condition consistent with this Act, and on breach of which, he is, under the terms of a contract between him and his landlord, liable to be ejected.

29. *Enhancement of rent by contract.*—The money-rent of an occupancy-raiyat may be enhanced by contract, subject to the following conditions:

(a) the contract must be in writing and registered:

85. *Restrictions on sub-letting.*—(1) If a raiyat sub-lets otherwise than by a registered instrument, the sub-lease shall not be valid against his landlord unless made with the landlord's consent.

(2) A sub-lease by a raiyat shall not be admitted to registration if it purports to create a term exceeding nine years.

(3) Where a raiyat has, without the consent of his landlord, granted a sub-lease by an instrument registered before the commencement of this Act, the sub-lease shall not be valid for more than nine years from the commencement of this Act.

86. (c) When a holding is subject to an incumbrance secured by a registered instrument, the surrender of the holding shall not be valid unless it is made with the consent of the landlord and the incumbrancer.

87. (4) Where the whole or part of a holding has been sub-let by a registered instrument, the landlord shall, before entering under this section on the holding, offer the whole holding to the sub-lessee for the remainder of the term of the sub-lease at the rent paid by the raiyat who has ceased to cultivate the holding, and on condition of the sub-lessee paying up all arrears due from that raiyat. If the sub-lessee refuses or neglects within a reasonable time to accept the offer, the landlord may avoid the sub-lease, and may enter on the holding, and let it to another tenant, or cultivate it himself, as provided in sub-sections (1) and (2).

159. *General powers of purchaser as to avoidance of incumbrances.*—Where a tenure or holding is sold in execution of a decree for arrears due in respect thereof, the purchaser shall take subject to the interests defined in this chapter (i.e., XIV) as "protected interests," but with power to annul the interests defined in this chapter as "incumbrances."

Provided as follows :—

(a) a registered and notified incumbrance within the meaning of this chapter shall not be so annulled except in the case hereinafter mentioned in that behalf.

175. *Registration of certain instruments creating incumbrances.*—Notwithstanding anything contained in Part IV of the Indian Registration Act, 1877, an instrument creating an incumbrance upon any tenure or holding which has been executed before the commencement of this Act, and is not required by section 17 of the said Registration Act to be registered, shall be accepted for registration under that Act if it is presented for that purpose to the proper officer within one year from the commencement of this Act.

176. *Notification of incumbrances to landlord.*—Every officer who has, whether before or after the passing of this Act, registered in instrument executed by a tenant of a tenure or holding, and creating an incumbrance on the tenure or holding, shall at the request of the tenant, or of the person in whose favour the incumbrance is created, and on payment by him of such fee as the Local Government may fix in this behalf, notify the incumbrance to the landlord by causing a copy of the instrument to be served on him in the prescribed manner.

For rules for the registration of documents under the Bengal Tenancy Act, see Appendix III.

XIV. The Oudh Estates Act (I of 1869).

An Act to define the rights of Talukdars and Others in certain Estates in Oudh and to regulate the Succession thereto.—

13. *Restriction as to donees and legatees.*—No talukdar or grantee and no heir or legatee of a talukdar or grantee, shall have power to give or bequeath his estate, or any portion thereof, or any interest therein, to any person not being either—

(1) a person who, under the provisions of this Act, or under the ordinary law to which persons of the donor's or testator's tribe and religion are subject, would have succeeded to such estate or to a portion thereof, or to any interest therein, if such talukdar or grantee, heir or legatee, had died intestate, or

(2) a younger son of the talukdar or grantee, heir or legatee, in case the name of such talukdar or grantee appears in the third or the fifth of the lists mentioned in section 8,

except by an instrument of gift or a will executed and attested, not less than three months before the death of the donor or testator, in manner herein provided in the case of a gift or will, as the case may be, and registered within one month from the date of its execution.

17. Further requisites to validity of gifts inter vivos.—If any such transfer (i.e., transfer of any estate, or of any portion thereof, or of any interest therein, made by a talukdar or grantee or by his heir or legatee under the provisions of this Act) be made by gift, the gift shall not be valid, unless within six months after the execution of the instrument of gift, be followed by delivery by the donor or his representative in interest of the property comprised therein, nor unless the instrument shall have been registered within one month from the date of its execution.

18. Gifts to religious or charitable uses.—No talukdar or grantee, and no heir or legatee of a talukdar or grantee, shall have power to give his estate, or any portion thereof, or interest therein, to religious or charitable uses, except by an instrument of gift executed not less than three months before his death, and subject to the provisions contained in section 17.

20. Bequests to religious or charitable uses.—No talukdar or grantee, and no heir or legatee of a talukdar or grantee, having a child, parent, brother, unmarried sister, or a nephew being the naturally-born son of a brother of such talukdar or grantee, heir or legatee, shall have power to bequeath his estate or any part thereof or an interest therein exceeding in amount or value the sum of two thousand rupees to religious or charitable uses except by a will executed not less than three months before his death, and registered within one month from the date of its execution.

XV. The Oudh Rent Act (XXII of 1886).

An Act to consolidate and amend the Law relating to Rent in Oudh.

153. Registration of incumbrance created by under proprietor.—A beneficial lease or other incumbrance created by an under-proprietor on his tenure after the twenty-second day of July, 1868, shall not be valid in the event of the sale of his rights and interests in execution of a decree for arrears of rent unless the incumbrance has been registered under any rules of law for the time being in force in Oudh, within four months after the creation thereof, and not less than thirty days before the date of attachment of those rights and interests.

156. Registration of statutory pattas unnecessary.—Notwithstanding anything in the Indian Registration Act, 1877, pattas granted for any term not exceeding seven years by landlords to tenants to whom section 36, or section 37, of this Act applies, shall be deemed good and valid without their being registered.

XVI. The Central Provinces Tenancy Act (XI of 1898).

46. (5) Notwithstanding anything contained in the Indian Registration Act, 1877, no officer empowered to register documents shall admit to registration any document which purports to transfer the right of an occupancy tenant in his holding, or in any portion thereof, unless the document recites that the transferee is a person who, if he survived the tenant, would inherit the right of occupancy, is a person in favour of whom, as a co-sharer, the right of occupancy originally arose, or who became by succession a co-sharer therein.

APPENDIX II.

RULES UNDER THE REGISTRATION ACT

Bengal Rules.

No. 1439.—The 2nd March 1911.—The following rules have been made by the Inspector-General of Registration and approved by the Government of Bengal under section 69 of the Indian Registration Act, 1908, in supersession of all rules heretofore made under section 69 of the Indian Registration Act, 1877 :—

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PART 1.

PRELIMINARY.

Short title. 1. These rules may be called the Bengal Registration Rules, 1911.

Definitions. 2. In these rules, unless there is anything repugnant in the subject or context,—

- XVI of 1908. (i) "the Act" means the Indian Registration Act, 1908 ;
 (ii) "Appendix" means an Appendix to these rules ;
 (iii) "Registering officer" includes both a Registrar and Sub-Registrar ;
 (iv) "Registration office" includes both a Registrar's office and a Sub-Registrar's office ;
 (v) "rule" means a rule made under the Act for the time being in force ;
 (vi) "section" means a section of the Act ; and
 (vii) "year" means a calendar year.

PART II.

CUSTODY AND DESTRUCTION OF BOOKS, PAPERS AND DOCUMENTS.

3. Each Registrar's office shall be a central office of records for the district, and such of the registers of subordinate offices as are not to be destroyed shall be transferred to it from time to time as directed in rule 4.

4. (1) In January of each year the following records of the previous year shall be transferred from Sub-Registry offices to the Registrar's Office, namely :—

Central office of record in each district.

Transfer of records to the district office.

- (a) completed volumes of Register-book No. 11 together with the file books containing the memoranda and copies referred to in rule 101 ;
- (b) completed volumes of Register-book No. 4 and Index No. IV and copies of Indexes Nos. I, II, and III ; and
- (c) files of translations, and copies filed under section 62 ;

Provided that, in the case of Sub-Registry offices which have no masoury accommodation for the custody of records, and in the case of any other Sub-Registry office to which the Registrar may, by written order, extend this proviso, the said records shall be transferred to the Registrar's office at the close of each quarter.

(2) Register-books Nos. 2 and 3, and the Register of Powers-of-Attorney, shall be transferred from Sub-Registry offices to the Registrar's office as soon as they are filled up.

(3) The Registrar of a district, on receiving Indexes Nos. I and II from Sub-Registrar's offices, shall bind them separately for each Sub-Registrar's office.

5. The following records shall be permanently preserved in the Registrar's office, whether they are already there or whether they are transferred thereto under rule 4, namely :—

Records to be permanently preserved in Registrar's office

- (i) catalogues ;
- (ii) duplicate copies of documents and original powers filed under Bengal Regulation XX of 1812 ;
- (iii) Kazi's Records ;
- (iv) register-books and their indexes prescribed by, and translations and true copies filed under, Act XVI of 1864, XX of 1866, VIII of 1871, III of 1877, or XVI of 1908 ;
- (v) registers of documents and their indexes ;
- (vi) registers of Powers-of-Attorney authenticated, and
- (vii) reports of destruction of records, and lists of the papers destroyed.

Records to be permanently preserved in all Registration offices.

6. The following records shall be permanently preserved in all Registration offices, namely :—

- (i) catalogues ;
- (ii) lists of records destroyed ;
- (iii) original Indexes Nos. I and II under Act XX of 1866, VIII of 1871, III of 1877 or XVI of 1908 ;
- (iv) Register-book No. III under Act XVI of 1864 and Register-book No. V under Act XX of 1866 ; and
- (v) the rough indexes under Act XVI of 1864.

Registers to be kept in the Calcutta Registry Office.

7. The register-books and indexes of the general registry office under Act XVI of 1864 and Act XX of 1869 shall be preserved in the Calcutta Registry Office.

8. Every Registering officer shall be responsible for the preservation and safe custody of all registration records, including those of previous years, which have accumulated in, or have been transferred to, his office.

Responsibility for safe custody of records.

9. The following records may be destroyed, with the previous sanction of the Inspector-General of Registration, after the expiration of the period of retention respectively specified against each, the said periods being computed from the 1st January next following the date of the record :—

	Description.	Period of retention.
(a)	Cash-book ... ..	...
(b)	Fee-book ... ..	...
(c)	Other records which may be specified in this behalf from time to time by the Inspector-General.	12 years.
(d)	All correspondence, whether in English or in the vernacular, which is of an ordinary routine character and which the Registrar considers may be destroyed.	...
(e)	Obalun books ... ..	...
	Receipts for memoranda and copies referred to in rule 24.	3 years.
(g)	Receipts given under section 52 (b) ... ..	...
(h)	Register of visits and commissions ... ..	...
(i)	Other records which may be specified in this behalf from time to time by the Inspector-General.	...

10. When a registered document, which has remained unclaimed in any registration office for a period exceeding two years, is destroyed under section 85, a note to that effect shall be made in the margin opposite to the copy in the book in which the document is registered.

11. (1) No documents, books or papers whatever shall be destroyed at any registration office, without the previous sanction of the Inspector-General of Registration.

(2) Before any document is destroyed, an endeavour must always be made by the Registering officer in whose office the document is kept to induce the presentant thereof to take it back.

PART III.

LANGUAGES TO BE DEEMED TO BE COMMONLY USED IN DIFFERENT DISTRICTS.

12. The following languages shall be deemed, for the purposes of section 19, to be commonly used in the districts respectively mentioned opposite thereto :—

Languages to be deemed to be commonly used in different districts.

Language.	Districts.
English, Hindi and Hindustani.	{ Districts of the Patna and Tirhut Divisions, and the Districts of Bhagalpur and Monghyr.
Languages.	Districts
English, Hindi, Hindustani and Bengali.	Districts of the Chota Nagpur Division, and the districts of the Sonthal Parganas, Purnea and Darjeeling.
English, Bengali, and Hindustani.	Districts of the Burdwan and Presidency Divisions.
English, Bengali, Hindustani and Uriya.	Districts of the Orissa Division.

PART IV.

TERRITORIAL DIVISIONS.

Territorial divisions. 13. The territorial divisions to be recognized under section 21, sub-section (3), shall be—

- (a) registration districts, sub-districts, and thanas ;
- (b) parganas and mouzas, where they exist ; and
- (c) Collectorate districts, if these are different from registration districts.

PART V.

FINES TO BE IMPOSED UNDER SECTIONS 25 (1) AND 34 (1).

14. (1) Fines under section 25, sub-section (1) and the proviso to sub-section (1) of section 34 of the Act shall be imposed according to the following scale :—

Period of delay.	Amount of fine.
(a) when the delay does not exceed seven days.	a fine equal to the amount of the proper registration fee ;
(b) when the delay exceeds seven days, but does not exceed one month,	a fine equal to three times the amount of the proper registration fee ;
(c) when the delay exceeds one month, but does not exceed four months.	a fine equal to nine times the amount of the proper registration fee.

(2) The said fines shall be exclusive of the registration fees, which shall be levied in addition to such fines and shall be separately accounted for.

15. When two or more copies of a document, executed by the same parties, are presented for registration at the same time, the fines imposed under section 25, sub-section (1), or under the proviso to sub-section (1) of section 34 shall be calculated as for one document only, irrespective of the number of copies of the document which may be registered.

16. (1) Applications for the remission of such fines under section 70 may be filed with the Registering officer, but no such application shall be accepted until the fine has been paid.

(2) When any such application has been accepted, it shall be forwarded to the Inspector-General of Registration, with any remarks which the Registering officer may wish to make.

PART VI.

ADMINISTRATION AND RECORD OF OATHS.

17. The discretion reposed in the Registering officer by section 63 to administer an oath shall not be exercised unless he doubts the truth of any verbal statement made to him.

NOTE.—By virtue of section 3 (36) of the General Clauses Act, 1897, "oath" includes affirmation and declaration in the case of persons by law allowed to affirm or declare instead of swearing. As to who may affirm, see section 6 of the Indian Oaths Act, 1873.

18. An oath or affirmation administered by a Registering officer shall be administered according to the form of oath or affirmation prescribed by the High Court of Judicature at Fort William in Bengal for witnesses under section 7 of the Indian Oaths Act, 1873, and reproduced in Appendix II.

19. Statements made on oath shall not be recorded on the document to which they relate, but shall be recorded on a separate sheet of paper, and a note, to the effect that the statements have been so recorded, shall be endorsed on the document itself.

PART VII.

MEMORANDA COPIES OF DOCUMENTS.

20. (1) The memoranda required by sections 64 to 67 shall be prepared in Form No. 1 in Appendix I.

(2) The copies referred to in sections 65 to 67 shall be made on paper of the same size and description as that used for bound books.

21. (1) When the memoranda required by section 65, 66
Memoranda and copies for other districts. or 67 are to be sent by a Registering officer to a sub-district in another district,-

(a) they shall be enclosed to the Registrar of that district, together with the copy required for his own office, and

(b) they need not mention any property other than that which is situated in the sub-district to which they are to be sent.

(2) When a copy of a document is sent to the Registrar of another district under section 65, 66 or 67, a memorandum need not be sent to any Sub-Registrar whose office has been amalgamated under section 7, sub-section (2), with that of the Registrar of such district.

22. When a copy of a Bengali, Uriya or Hindi document is forwarded under section 65 to a Registrar in another Province, it shall be accompanied by information in English respecting the names and additions of all persons executing and claiming under the document, and by a description (sufficient for its identification) of the property situated in such Registrar's district.
Copies of Bengali, Uriya or Hindi documents for other provinces.

23. The date on which any memorandum or copy of a document is despatched shall be entered in the right-hand margin of the register-book in which the document has been copied.
Entry of date of despatch of memoranda and copies.

24. (1) When a memorandum or copy of a document is sent under section 64, 65, 66 or 67 from one office to another, it shall be accompanied by a receipt in Form No. 2 in Appendix I, which shall, immediately on receipt, be signed and returned by the receiving officer.
Receipts for memoranda and copies.

(2) If delay occurs in the return of any receipt, the despatching officer shall send a reminder for it.

(3) All such receipts, when returned, shall be filed separately.

PART VIII.

AUTHENTICATION OF REGISTER-BOOKS.

25. (1) The Registering officer shall authenticate by his ^{Authentication of} initials all corrections in the copy of every ^{copies and notes.} document admitted to registration which, by section 52, clause (c), is required to be made in the Register-book and all notes in such copy which may be made under section 20, sub-section (2).

(2) He shall also affix his initials to each page of such copy, and shall certify with his full signature that each copy is a true copy, and shall date such certificate with his own hand.

26. (1) The practice of wiping out incorrect words and ^{Mode of making cor-} figures in Register-books with the finger, or ^{rections.} scratching them out with a knife, is prohibited in all Registration offices.

(2) Corrections in such books must always be made with a pen: they must not be made by altering one word or figure into another, but the pen must be drawn through the erroneous words or figures, and the correct ones must be clearly written near or above those struck out, or opposite to them in the right-hand margin.

(3) All corrections and interlineations in such books must be attested by the Registering officer's initials, which must be written, not in the middle of the erroneous words or figures, but in a clear space close by.

27. When a Register-book is closed, a certificate to that ^{Certificate of closing} effect, signed by the Registering officer, shall ^{of Register-book.} be appended at the end of the written portion of the book, and a further certificate, showing the number of pages written upon, shall be entered by the Registering officer in his own hand on the first page of the book.

PART IX.

INDEXES.

28. The Indexes Nos. I, II, III and IV, prescribed by ^{Forms for Indexes} section 55, shall respectively be prepared in ^{Nos. I, II, III, and IV.} Forms Nos. 3, 4, 5 and 6 in Appendix I.

29. Each of the said indexes shall be kept in the English ^{Indexes to be in English.} language.

Entries to be made in
alphabetical order.

30. (1) All entries in the said Indexes must be made in alphabetical order.

(2) Names of persons or places must be indexed according to the first vowel of the word when it begins with a consonant, and according to the second vowel when it begins with a vowel.

31. (1) If the documents to be indexed are written or executed in the English language, the names of the persons and places shall be spelt in the Index in the same way in which they are written in the documents.

(2) If the documents are written or executed in a vernacular language, the names of persons and places shall be spelt, in the index, according to Sir W. W. Hunter's system of transliteration.

32. (1) In the case of European names, the surname shall be taken as the index word.

(2) Indian names shall be indexed according to their first letters as they stand in the document, and shall be transliterated in the same form as that in which they are written in the document.

33. When a document is executed by the representative or guardian of another person, the name of such other person, as well as that of the representative or guardian, shall be indexed

Indexing of names of persons for whom executants are representatives or guardians.

34. (1) The name of the depositor of a sealed cover shall be entered in Index No. III in *black ink*.

Different coloured ink for certain names in Index No. III.

(2) The name and addition of persons claiming under a will or authority to adopt, which, as prescribed by section 55, sub-section (4), are not to be indexed unless the testator or donor is dead, shall be entered therein in *red ink*.

35. (1) When there are two or more executants of or claimants under a document, their names shall be separately entered in Index No. I, III, or IV, as the case may be.

Separate entry of each executant, claimant or property.

(2) When two or more properties are conveyed by a single document, they shall be separately entered in Index No. II :

Provided that no Sub-Registrar need enter in his Index No. II any property which does not lie in his own sub-district.

36. (1) Copies and memoranda of documents and the copies of sale-certificates and instruments and orders which are referred to in rule 101, shall be indexed in the same way as original documents, but the entries relating to them shall be made in *red ink*.

(2) In Index No. 1, the names of the decree-holder, auction-purchaser and judgment-debtor shall be indexed from sale-certificates, and the names of the parties shall be indexed from memoranda.

37. In all Sub-Registrars' offices, the original Indexes Nos. I, II and III shall be made, for office use, in bound volumes, a copy being sent to the Registrar's office under rule 4.

PART X.

HOLIDAYS TO BE OBSERVED IN REGISTRATION OFFICES.

38. The holidays to be observed in Registration offices shall be those specified in paragraphs 2 and 7 of Government Resolution No. 1624 T.—F., dated the 31st October, 1901, which are reproduced in Appendix III.

PART XI.

PROCEDURE PRIOR TO ACCEPTANCE OF DOCUMENTS FOR REGISTRATION.

39. On the presentation of a document for registration, the Registering officer shall first satisfy himself—

- (a) that it has been presented at the proper office (sections 28, 29 and 30);
- (b) that it bears the proper stamp or is exempted from stamp duty;
- (c) that it is in a language deemed to be commonly used in the district, or is accompanied by a true translation into such a language and a true copy (section 19);
- (d) that in the case of any interlineation, blank, erasure or alteration, section, 20 and rule 41 have been complied with;

- (e) that, if the document is non-testamentary and relates to immovable property, the description is sufficient (section 21);
- (f) that, if the document is non-testamentary and relates to lands or houses the description of which is governed by a rule made under section 22, sub-section (1), the lands or houses are described according to that rule;
- (g) that, if the document is non-testamentary and contains a map or plan, it is accompanied by the prescribed number of true copies of the map or plan [section 21 (4)];
- (h) that, if the document is not a will, it has been presented within the proper time (sections 23 to 26); and
- (i) that the document has been presented by the person authorized in that behalf (section 32 or section 40).

40. When a document is presented under section 25, sub-section (1), to a Sub-Registrar, he shall, after examining it with regard to the particulars mentioned in rule 39, forward it forthwith to the Registrar of the district with the application referred to in section 25, sub-section (2); and, if the Registrar returns the document with an order that it may be accepted for registration, the Sub-Registrar shall deal with it in the same manner as documents presented within the time allowed for registration.

41. (1) When the executant of any document appears personally, he shall be required to attest all interlineations, blanks, erasures and alterations, as prescribed by section 20.

(2) When he appears by a representative, the attestation of such representative shall be accepted, if the interlineations, blanks, erasures or alterations are of an unimportant character or if due cause for such acceptance is shown.

42. (1) When a document is presented to a Registering officer whose office is not the proper office for its registration, he shall return it to the presentant with the endorsement "Returned for presentation at the proper office."

(2) When a document is returned under sub-rule (1), no entry shall be made in Register-book No. 2.

43. (1) Whenever it appears to a Registering officer that a document presented for registration is not duly stamped, he shall not realize the registration fee, but shall impound the document at once under section 33 of the Indian Stamp Act, 1899, and shall enter it without delay in the register of impounded documents (Form No. 7, Appendix I).

(2) The headings prescribed in Form No 17 in Appendix I shall, as far as practicable, be filled up in the receipt granted to the presentant under section 52, clause (b), and the words "Document impounded" shall be recorded in *red* ink on the receipt under the Registering officer's signature.

(3) Before forwarding the document to the Collector, the Registering officer shall record on it—

(i) the endorsement "Impounded and forwarded to Collector, under section 38, sub-section (2), of the Indian Stamp Act, 1899 ;"

XI of 1899.

(ii) the endorsement required by section 52 ; and

(iii) if the executant is present, the endorsements required by section 58.

44. (1) When an impounded document is received back from the Collector with his certificate that it is duly stamped or is not chargeable with duty, or that the proper or deficit stamp duty has been paid, the Registering officer shall send a notice to the presentant, requesting him—

Procedure when impounded document is returned by the Collector

(a) to appear, with the receipt which was given to him on presentation of the document,

(b) to pay the necessary fees, and

(c) to take steps for the registration of the document, if the admission of execution was not recorded before proceeding under rule 43 ;

and, on his complying fully with such request, the registration shall be proceeded with.

(2) The said fees may be taken either from the presentant, if he appears, or from the person nominated in writing in that behalf on the receipt, and the requisite entries shall then be made in the fee-book and in the receipt.

45. If any of the conditions indicated in clauses (c) to (i) of rule 39 have not been complied with, or if the presentant refuses to pay the proper registration fee, the document must be returned at

Procedure in other cases when document is inadmissible.

once to the presentant, with the endorsement "Registration refused," an entry being made at the same time in Register-book No. 2:

Provided that action under this rule may be deferred at the request of the parties, in order to enable them to comply with the requirements of the law; but in such cases an order of refusal shall be passed if the said requirements have not been complied with within the time allowed for presentation (sections 23 to 26).

46. (1) If any document in which a Registering officer is personally interested, either directly or indirectly, is presented to him for registration, or if he is asked to authenticate a power-of-attorney granted for the registration of any such document, he shall recommend the parties to present the document or power at some other registration office under the provisions of section 29, section 30 or section 33, clause (a), as the case may be.

(2) If the parties, after being recommended to present such document or power at some other office, insist on the registration of the document, or the authentication of the power-of-attorney, by the said Registering officer he shall register the document, or authenticate the power, as the case may be, and shall report the facts to the Registrar to whom he is subordinate.

PART XII.

PROCEDURE ON ACCEPTANCE OF DOCUMENTS FOR REGISTRATION.

47. If the requirements of the law have been complied with in respect of all the particulars indicated in rule 39, a certificate of admissibility in Form No. 1 in Appendix IV shall be endorsed on the face of the document, and shall be signed and dated by the Registering officer.

48. When a document occupies more than one sheet of paper, the seal and signature of the Registering officer shall be attached to every sheet at the time of presentation.

49. (1) After endorsing on a document the certificates of admissibility referred to in rule 47, the Registering officer shall receive the registration fee and the fine (if any) payable under section 25, sub-section (1), and

shall enter the respective amounts thereof on the document close to the said certificate, and at the same time the requisite entry shall be made in the fee-book.

(2) The amounts of the fee and fine (if any) paid shall be respectively endorsed on the receipt given under section 52, clause (b), in Form No. 17 in Appendix I.

50. (1) The endorsements required by sections 52 and 58 shall be written in Form No. 2 or Form No. 3 in Appendix IV, as the case may require.

(2) All endorsements whether made under section 52 or section 58 or otherwise, shall be made in *red* ink; except that signatures thereto shall be made in *black* ink.

(3) Every endorsement made by a Registering officer shall be written in his own handwriting, unless he has been specially authorized by the Inspector-General of Registration to use endorsement stamps.

51. (1) When the Registering officer is not personally acquainted with the executants of a document presented for registration, he shall require them to furnish the best testimony obtainable to establish their identity, such as that of persons known to the Registering officer or that of persons of apparent respectability, for instance, zamindars, Court officials or pleaders.

(2) The Registering officer shall satisfy himself that the identifier is really acquainted with the person or persons whom he proposes to identify, and the identifier shall be asked to state the name of the person to be identified and also whether such person is really the person whom he professes to be.

52. When a person who cannot write signs his name by means of a mark or by touching the pen, his name shall be recorded at length, and the writer of the name shall also sign his own name in attestation that the mark was affixed or the pen touched in his presence.

53. (1) When the executant of a document—

(i) is unable to write, or

Thumb impressions.

(ii) is not personally known to the Registering officer,

he shall, in addition to signing his name (in the manner indicated in rule 52, if he is unable to write) imprint the mark of his left thumb on the document to be registered and also in a register of thumb impressions kept in Form No. 8 in Appendix I :

Provided that, if the left thumb of the executant be defective or injured, the right thumb or any other digit may be used ; but a note must, at the time the impression is taken, be made in the register of thumb impressions and also on the document, mentioning the particular digit used and explaining why the impression of the left thumb could not be taken.

(2) The said mark shall be made by a slightly rolled impression of the executant's left thumb (or other digit, as the case may be) taken in printer's ink off a flat piece of tin, properly prepared for the purpose.

(3) Against each impression in the register of thumb impressions, the name of the party, the number of the document in Register-book No. 1, 3 or 4, as the case may be, and the date, shall be entered.

(4) Notwithstanding anything hereinbefore contained, a Registering officer may, in his discretion, dispense with the taking of impressions in the case of European ladies and gentlemen and other persons of position regarding whose identification there can be no doubt or room for suspicion, even if the executant is not personally known to him.

(5) In the case of *pardanashin* ladies, no exemption shall be allowed, and they must in all cases be required to affix thumb (or other digit) impressions, either before the Registering officer or in the presence of the person who identifies them.

54. Before refusing, under section 35, sub-section (3), to register any document, the Registering officer may, at the request of the parties, postpone action in order to enable them to comply with the requirements of the law ; but no such postponement shall last more than the period of four months prescribed by the proviso to section 34.

Postponement of refusal to register

55. (1) When a document has been presented to a Sub-Registrar for registration, within the period prescribed by section 23, namely, four months from the date of its execution, and the executant fails to appear to admit execution within that period, the Sub-Registrar must, immediately after the expiration of the said period, record a formal refusal to register, leaving it to the parties to appeal to the Registrar under section 72 within thirty days, if they think proper :

Procedure on failure of the executant to appear within four months from execution of document.

Provided that the Sub-Registrar shall not record such an order if the person presenting the document has, before the expiration of the said period, initiated proceedings under section 36 to procure the appearance of the executant, but in that case

he shall report the matter to the Registrar for orders at the end of the said period.

(2) In any case referred to in sub-rule (1),—

(a) the Registrar shall not pass an order granting an extension of time or directing the Sub-Registrar to register the document, unless it is shown that the non-appearance of the executant was due to urgent necessity or unavoidable accident, and

(b) if the Registrar passes such an order, a fine must be imposed under the proviso to section 34, sub-section (1).

56. (1) If the time for accepting a document for registration has been extended under section 25, and the executant fails to appear to admit execution within the period of eight months from the date of its execution, the Sub-Registrar must, immediately after the expiration of the said period, record a formal refusal to register, leaving it to the parties to appeal to the Registrar under section 72 within thirty days, if they think proper :

Procedure on failure of the executant to appear, after payment of a fine under section 25, within eight months from execution of document.

Provided that the Sub-Registrar shall not record such an order if the person presenting the document has, before the expiration of the said period, initiated proceedings under section 36 to procure the appearance of the executant, but in that case he shall report the matter for the orders of the Registrar on the expiration of the said period.

(2) In any case referred to in sub-rule (1),—

(a) the Registrar shall not pass an order granting an extension of time or directing the Sub-Registrar to register the document, unless it is shown that the non-appearance of the executant was due to urgent necessity or unavoidable accident, and

(b) if the Registrar passes such an order, a fine must be imposed under the proviso to section 34, sub-section (1), in addition to the fine already imposed under section 25, sub-section (1).

57. (1) The procedure prescribed by rule 55 shall apply also in the case of documents referred to in section 26, with this exception only, that the period of four months referred to in that rule, and any extended period allowed under the proviso to sub-section (1) of section 34, must be reckoned from the date of the arrival

Application of rule 55 to documents executed out of British India.

of such documents in British India, and not from the date of their execution.

(2) Such documents shall not, under any circumstances, be accepted for registration more than eight months from the date of their arrival in British India.

58. (1) When a document is presented for registration, or the execution thereof is admitted, more than four months after execution, and the Registrar decides that the document should be admitted to registration, he may either—

Who to register when Registrar decides that a document should be registered more than four months after its execution.

(a) register the document himself, in which case the extra fee prescribed in Article K of the table of fees, as well as the penalty imposed under section 25 or the proviso to sub-section (1) of section 34, as the case may be, shall be levied, or

(b) direct the registration of the document, on payment of the said penalty, by any Sub-Registrar in whose office it could have been registered if presented within the said period of four months.

(2) In such cases the date on which application was made to the Registrar for his decision shall be regarded as the date of presentation.

59. (1) When a Registering officer records, under section 71 or section 76, his reasons for refusing to register a document, the record must be made in book No. 2 with his own hand, and must state the reasons fully and clearly.

Record of reasons for refusal to register.

(2) If the reasons include the fact that one out of several executants declines to comply with the requirements of the law, his name must be given; and, if the Registering officer is doubtful as to the identity of a party admitting execution, the grounds of his doubt must be stated.

PART XIII.

PROCEDURE ON ADMISSION OF A DOCUMENT TO REGISTRATION.

60. When all the person executing a document, or their representatives, assigns or agents, have appeared and admitted its execution, the document shall be copied into the appropriate Register-book.

Document to be copied after admission of execution.

61. When two or more copies of the same document are admitted to registration at the same time, it shall not be necessary to copy the document more than once in the register-book, but all endorsements shall be written upon each copy and all the copies shall be allotted different serial numbers in the registers.

62. The copies of maps or plans which are required by section 21, sub-section (4), to accompany documents, must be attested by the signatures of the persons executing such documents, or by the signatures of their agents; and the original maps or plans contained in the documents must at the time of registration be signed and sealed by the Registering officer.

63. When a document containing a map or plan is presented under section 24, for re-registration, the parties need not deposit fresh copies of the map or plan under section 21, sub-section (4); but the Registering officer shall certify against the copy of the map or plan already contained in the register-book that the map or plan attached to such document is the same as that which was attached to the document on its first presentation.

64. (1) The translations and copies of documents required by sections 19 and 62 shall be made upon machine-made medium paper, which may be sold to the public for this purpose by Registering officers at half an anna per sheet.

(2) Such translations and copies shall be kept in a separate file, a reference being made to the said file in the right-hand margin of the page on which the translation is copied in the register-book.

(3) The said file shall be bound from time to time, when it contains a sufficient number of translations and copies to form a volume.

(4) When translations are made, the endorsements referred to in rule 47, rule 50, sub-rule (1), and section 60, and the entry referred to in rule 49, sub-rule (1), shall be copied on the left-hand margin of the page of the register-book into which the translations are copied.

65. The copy of every document in a Register-book shall be compared with the original by some person other than the copyist; and the copyist and the comparer shall append their signatures,

with the date, to the copy in the book, using respectively the words "copied by" and "compared by."

66. (1) Interlineations, blanks, erasures and alterations in a document must not be copied as such, but must be noted as required by section 20, sub-section (2).

Interlineations, blanks, erasures, alterations and corrections.

(2) All interlineations and corrections in register-books shall be made in *red* ink when the entries are made in *black* ink, and shall be made in *black* ink when the entries are made in *red* ink.

67. (1) When a document is erroneously copied into a wrong book, the register copy of the certificate and endorsements already made on the document shall not be cancelled, but the Registrar may direct that a copy of the document, with the certificate and endorsements thereon, shall be made in the appropriate register without additional charge.

Procedure when document is copied into a wrong book.

(2) If the error in copying is discovered after the document has been returned after registration, the same procedure may be followed, a note being made, in the margin of the copy in the wrong register, of the volume and page of the appropriate register into which the contents are re-copied.

(3) In both of the cases referred to in sub-rules (1) and (2) fresh entries must be made in the appropriate indexes, without cancelling the original entries made in those indexes.

68. When a document has been copied into a register-book and compared, the Registering officer shall make in Form No. 4 in Appendix IV the endorsement required by section 60.

Form of final endorsement of registration.

69. (1) When there is not room on a document for the necessary endorsements, they shall be made on a separate quarter sheet of machine-made medium paper, which shall be supplied by the Registering officer and shall be attached to the document, an explanatory note being at the same time made on the document itself and signed by the Registering officer.

Making of endorsements on separate paper.

(2) Every piece of paper so added must bear the seal of the Registering officer and must be signed and dated by him.

70. (1) Any person having occasion to register any considerable number of documents in the same form, such as leases, agreements or bonds, may deposit in any registration office any

Printed or lithographed forms for documents in a common form.

number, not less than fifty, of printed or lithographed forms of such documents.

(2) Such forms must be printed or lithographed length ways on machine-made paper of medium size. Blank spaces must be left in the body and at the foot of the form for filling in names, amounts of money, areas, boundaries, and any other required particulars. A margin must be left, of one inch on the left-hand side, for binding. No margin is necessary for copying endorsements, as in the case of other registers; but the forms must contain a blank space, of not less than one side of a half-sheet of the paper, on which the endorsements are to be copied.

(3) Before use such forms must be bound into volumes, and paged in the registration office, and a certificate as to the number of pages contained in a volume must be written on it and signed by the Registering officer. One volume shall be kept for each depositor, and his name shall be noted outside. The volumes shall be numbered and shall be treated in all other respects as volumes of Book No. I or Book No. IV, as the case may be.

(4) On the presentation of a document which is an exact duplicate of any form deposited and is executed by, or in favour of, any one of the depositors, it shall be copied into the volume appropriated to that depositor's forms; that is to say, the blank space in the form previously deposited shall be filled up so as to make it an exact copy of such document.

(5) Priority must be given to the registration of documents presented under this rule; and every endeavour must be made to return the documents to the presentants thereof before they leave the office.

71. When, owing to an error or omission in any document which has been registered, a supplementary document, rectifying such error or omission, is presented for registration, a note of such rectification shall be made in the margin of the register in which the original document is registered.

72. (1) Documents must be promptly returned, after registration, to the presentants or other persons authorized to receive them; and the receipts returned by the parties must be passed on to their respective counterfoils.

(2) When receipts are granted under section 52, clause (b), to the presentants, they must be informed by the Registering officer of the probable date on which their documents will be ready for return.

(3) The said date must be noted on the receipts, and every endeavour must be made to return the documents on such date.

PART XIV.

VISITS AND COMMISSIONS.

73. All applications for visits under section 31, proviso, Payments to accompany applications for visits or commissions. section 33, sub-section (3), or section 38, sub-section (2), or for the issue of commissions under section 33, sub-section (3), or section 38, sub-section (2), must be accompanied by the amount of the fees chargeable as well as the amount of travelling allowance claimable by the Registering officer or Commissioner.

74. (1) When the amounts referred to in rule 73 are paid, Receipt for payments for visit under section 31. in respect of a visit under section 31, proviso, the Registering officer shall grant a receipt therefor, in Form No. 9 in Appendix I.

(2) The said receipt must be returned to the Registering officer, and must be filed by him when the document in respect of which the application was made is accepted for registration and a receipt is granted therefor under section 52, clause (b).

75. Every commission shall be in Form No. 5 in Appendix IV, or (if the commission is to be executed in another district) in Form No. 6 in that Appendix, and shall be endorsed on the document in respect of which it is issued. Form and endorsement of commissions.

76. (1) A Registering officer shall ordinarily issue his commission to some salaried member of his establishment : Commissions to whom to be issued.

Provided that, if the person to be examined be not resident in the district in which a commission is issued, the commission shall be sent to the Registrar of the district in which such person resides and he shall cause such person to be examined by a Sub-Registrar or by any other officer whom he may appoint for the purpose.

(2) When a Registering officer sends a commission to the Registrar of another district under the proviso to sub-rule (1), he shall at the same time transfer the travelling allowance (if any) paid in respect of the commission, but shall credit the commission fee in his own accounts.

77. A Registering officer may examine a Commissioner personally, in the office of the Registering officer, touching any of the circumstances connected with the discharge of his commission, and, in particular, with reference to the voluntary nature of the admission of execution of a document.

78. (1) When a commission has been executed, the Commissioner shall return the document to which it relates to the office from which the commission was issued, with a report, in Form No. 7 in Appendix IV, endorsed on the said document.

(2) On receiving the report of the Commissioner, the Registering officer shall, if satisfied as to the execution of the document to which the commission relates, make an endorsement below such report, in Form No. 8 in Appendix IV.

PART XV.

SPECIAL PROVISIONS AS TO POWERS-OF-ATTORNEY.

79. (1) A power-of-attorney shall not be recognized, as authorizing an agent to act on behalf of a principal under the Act, unless it contains an express or implied authority in that behalf.

(2) Powers-of-attorney which do not contain or imply an authority to appear in a registration office to present documents for registration (section 32) or to admit the execution of documents (section 34) shall not be authenticated under section 33, clause (a).

80. (1) All interlineations, blanks, erasures and alterations in powers-of-attorney authenticated by a Registering officer under section 33, clause (a), must, at the time of such authentication, be detailed in a foot-note signed by the Registering officer.

(2) When there are no interlineations, blanks, erasures or alterations in such a power-of-attorney, the fact must be mentioned in a foot-note signed by the Registering officer.

(3) The said foot-notes must be copied in every case into the register of powers-of-attorney kept in Form No. 18 in Appendix I.

Authentication
of powers-of-attorney.

81. The authentication of powers-of-attorneys shall be made—

- (i) in Form No. 9 (a) in Appendix IV, when the principal executing the power appears at the Registration office;
- (ii) in Form No. 9 (b) in Appendix IV, when, the principal being exempted from appearance, the Registering officer examines the principal on a visit under section 33, sub-section (3); and
- (iii) in Form No. 8 in Appendix IV, when the principal is examined on commission.

82. (1) Whenever a special power-of-attorney is used in a Registration office for the purposes of section 32 or section 34, an endorsement shall be made upon it, in Form No. 10 in Appendix IV, and it shall be returned forthwith to the party by whom it was presented.

(2) In the case of general powers-of-attorney no such endorsement is required; and they shall be returned, after inspection, to the parties by whom they were presented.

83 A power-of-attorney authenticated in a language unknown to the Registering officer to whom it is presented may, if the parties so desire, be submitted by him to the Registrar or the Inspector-General of Registration, who shall thereupon procure an English translation of the authentication and forward such translation to the said Registering officer.

Endorsement when a special power-of-attorney is used.

Translation of authentication of power-of-attorney.

PART XVI.

PROCEDURE WITH REGARD TO WILLS.

84. (1) A will shall not be received for deposit otherwise than is prescribed by section 42; and any will received through the post-office shall be returned to the sender in an unstamped envelope.

Deposit of wills.

(2) The headings in Form No. 17 in Appendix I shall, as far as practicable, be filled up in the receipt granted under section 52, clause (b) for any will deposited under section 42; and a note shall be entered on the receipt, stating that the will is received for deposit under section 42.

(3) The Registrar shall explain to every person depositing a will that no steps will be taken by the Government to ascertain the date of the testator's death or to communicate with the beneficiaries after his death.

85. Every entry made in Register-book No. 5 under the provisions of section 43 shall be signed in full, and dated by the Registrar.

Entries in Register-book No. 5.

86. When a sealed cover containing a will is withdrawn under section 44, the fact shall be noted in Register-book No. 5, and the entry shall be signed by the person by whom the cover is withdrawn, as well as by the Registrar, and the receipt referred to in rule 84 (2) shall be returned by such person and filed in the Registrar's office.

Withdrawal of sealed cover containing will.

87. (1) When a sealed cover containing a will is opened under section 45, the fact shall be noted in Register-book No. 5, and the note shall be signed by the Registrar.

Opening of sealed cover containing will.

(2) If a cover is opened under an order of a Civil Court, the fact shall be mentioned in the said note.

88. When a will is forwarded to any Court under section 46, it shall be accompanied by—

Documents to accompany wills forwarded to a Court.

(a) a memorandum of the fee for opening the cover and the charges (if any) for copying the will into Register-book No. 3, and

(b) a letter requesting such Court to levy such fee and charges and to remit them to the Registrar by whom the will is forwarded.

89. Sealed covers containing wills deposited with a Registrar under section 42 shall be examined monthly, and their condition on such examination shall be noted in such manner as the Inspector-General of Registration may direct.

Monthly examination of sealed covers containing wills.

PART XVII.

SUMMONSES.

90. Summonses under section 75, sub-section (4), shall be issued direct by the Registrar, who shall follow the procedure prescribed in Orders V and XVI in the first schedule to the Code of Civil Procedure, 1908, so far as it is applicable.

Summonses under section 75 (4).

91. (1) Every application to a Registering officer, to procure the issue of a summons under section 37, must be accompanied by the sum required for the payment of the expenses of the person

Application for summons under section 37.

whose appearance is desired, and the peon's fee, as fixed by the rules governing the officer or Court who is to issue the summons.

(2) When calling upon such officer or Court to issue a summons, the registering officer shall forward a draft summons, in duplicate, for the signature of such officer or Court, together with the sum received under sub-rule (1).

92. Whenever any summons referred to in this Part is to be served in an area in which is spoken a vernacular different from that spoken in the area in which the summons is issued, the summons must be accompanied by a translation in English.

Summons when to be accompanied by translation.

93. (1) If a summons issued under section 37 be addressed to a person who is alleged to be the executant of a document, it shall require him to attend either in person or by duly authorized agent.

Attendance on summons issued under section 37.

(2) If such a summons be addressed to a person whose evidence is required to prove any other fact, it shall require him to attend in person.

94 (1) If any person upon whom a summons issued under section 37 has been duly served fails to appear, or if any summons issued under that section cannot be served, the Registering officer may (if he is a Sub-Registrar, with the previous sanction of the Registrar) request the officer or Court who issued the summons to take such further action, under the law for the time being in force, as the Registering officer may consider necessary for securing the attendance of such person.

Procedure in case of non-appearance on such summons.

(2) Every such requisition must be accompanied by the proper fee.

PART XVIII.

SUPPLY OF INFORMATION FROM REGISTERS OR COPIES OF DOCUMENTS.

95. (1) An application to make a search in any register in a registration office, or to obtain a copy of a document recorded in such an office, or to carry out both these objects, may be made either in writing or verbally.

Applications for searches and copies.

(2) If such an application is made verbally, the Registering officer shall write his order thereon upon a slip of paper.

(3) All such applications and orders shall be preserved in a separate file.

(4) Applications made through Sub-Registrars for copies from registers deposited in the Registrar's office shall be made in writing, and shall be transmitted without delay to the Registrar for necessary action.

(5) Registrars shall permit searches of, and shall grant copies of entries in, the registers kept previous to the first day of January, 1909, in the same manner as in the case of the registers kept under the Act.

96. (1) A call for information from any Court or Revenue officer must, if it necessitates a search in the registers by officials of the Registration office, be accompanied by the fee prescribed for such search.

(2) Officers of the Government may make searches in indexes, and inspect registers, for *bond fide* public purposes, subject to the restrictions contained in section 57 as to the persons by whom certain searches may be made.

97. If the production of a register-book in any Court is required it shall be so produced by an officer of the registration establishment deputed for that purpose.

Notes—Such officer will be entitled to claim payment of his expenses, like any other witness.

PART XIX

REGISTER-BOOKS AND OTHER RECORDS.

(1) The Register-books Nos. 1, 3 and 4 shall have

Register-books Nos. 1, 3 and 4 how to be kept. two margins.

(2) On the left-hand margin there shall be copied in *red* ink the value of the stamp on each document registered, the certificate of admissibility in respect thereof referred to in rule 47, and all the endorsements relating thereto made in the office; in the centre the document itself shall be copied in *black* ink; and the right-hand margin shall be left vacant for notes under section 20, sub-section (2).

(3) The stamp-vendor's endorsement on each document shall be copied in *red* ink in the appropriate register-book in the centre of a page below the copy of the document itself.

99. The Register-books Nos. 2 and 5 shall respectively be kept in Forms Nos. 10 and 11 in Appendix 1.

Form of Register-books Nos. 2 and 5.

100. (1) Several volumes of Register-books Nos. 1 and 4 may, if necessary, be kept in use simultaneously, when the documents registered are so numerous as to make this course necessary.

(2) Register-books Nos. 2, 3 and 5 shall be continued from year to year until they are full, and, in small offices, where the number of documents registered is inconsiderable, the same volume of Register-books Nos. 1 and 4 may also be used for two or more years.

101. (1) In addition to the bound volumes of Register-book No. 1, every Sub-Registrar must keep two file-books.

(2) In one of such file-books he must file the memoranda of registered documents which have been forwarded to his office under sections 64, 65 and 66.

(3) In the other file-book he must file the copies of sale-certificates received by him from Civil Courts under the Code of Civil Procedure, 1908, and from Revenue officers, and the copies of instruments and orders received under the Land Improvement Loans Act, 1883, and the Agriculturists' Loans Act, 1884.

(4) Registrars must keep three separate file-books, one for memoranda, one for copies of documents and copies of maps or plans (if any) received under sections 65, 66 and 67, and one for the copies of sale-certificates and the copies of instruments and others referred to in sub-rule (3) and received by him.

(5) The papers referred to in sub-rules (2), (3) and (4) shall be bound into volumes of convenient size at the end of the year. They shall be numbered consecutively, but in a series different from that used for the registration of original documents in Register-book No. 1.

102. Besides the Register-books Nos. 1, 2, 3 and 4, prescribed by section 51, the Indexes Nos. I, II, III and IV prescribed by section 55, and the file-books prescribed by rule 101, the following records shall be kept in all registration offices, in the forms noted against each, namely :—

- (1) Cash-book (Form No. 12 in Appendix I);
- (2) Catalogue of books (Form No. 13 in Appendix I);
- (3) Chalan (Form No. 14 in Appendix I);
- (4) Daily notices (Form No. 15 in Appendix I);
- (5) Fee-book (Form No. 16 in Appendix I);
- (6) Receipts for memoranda and copies (Form No. 2 in Appendix I);

- (7) Receipts given under section 52, clause (b) (Form No. 17 in Appendix I);
- (8) Register of powers-of-attorney (Form No. 18 in Appendix I);
- (9) Register of visits and commissions (Form No. 19 in Appendix I); and
- (10) Stock-book of furniture (Form No. 22 in Appendix I).

103. In addition to the Register-book No 5 prescribed by section 51 and the records mentioned in rule 102, the following records shall be kept in the offices of all Registrars, in the forms noted against each, namely :—

Additional records to be kept in Registrars' offices.

- (1) Register of letters received (Form No. 20 in Appendix I); and
- (2) Register of letters issued (Form No. 21 in Appendix I).

PART XX.

SEALS.

104. (1) The seals prescribed by section 15 shall remain in the personal custody of the Registering officers for whose use they are respectively provided.

(2) Seals which have become unfit for use and are replaced by new ones, and the seals of offices which have been permanently closed, shall be destroyed in the presence of the District Sub-Registrar, who shall make a note of the destruction in the stock-book of furniture kept in Form No. 22 in Appendix I.

PART XXI.

MISCELLANEOUS.

105. Every Sub-Registrar shall sit daily during fixed hours to be approved by the Registrar and made known to the public by notice affixed in some conspicuous place outside the Sub-Registrar's office.

Daily sittings.

106. The serial number of the last document completed and ready for return shall be daily exhibited, in Form No. 15 in Appendix I, in some conspicuous place outside every registration office.

Daily notice of completion of documents.

107. Registering officers shall themselves receive documents which are tendered for registration, and, when they are registered, shall return them with their own hands.

Receipt and return of documents.

108. Whenever there is a permanent change in the charge of a registration office, the officer receiving charge shall compare the books in the office with the catalogue kept up in Form No. 13 in Appendix I, and shall note on the catalogue whether or not he finds the books to be complete.

APPENDIX I.

FORM No. I.

[see rule 20]

Memorandum of Document.

Nature of document, date of presentation of document, and endorsement of certificate of registration on the document.	NAMES AND ADDITIONS OF PARTIES.		Short name of property affected, and <i>lot</i> number (where possible).	Amount of consideration-money.
	Executant.	Claimants		
1	2	3	4	5

Signature of Registering Officer.

Registrar
Sub-Registrar of _____

FORM No. 2.

[see rules 24 and 102.]

RECEIPT FOR MEMORANDA AND COPIES.

MEMO. No.

THE undersigned has the honour to acknowledge the receipt of the undermentioned memoranda and copies of documents.

*Signature of Registrar (or Sub-Registrar)**Dated*

To the Registrar (or Sub-Registrar) of _____

Register number of documents.	WHERE REGISTERED.	Number of memoranda.	Number of copies.	Date of receipt.
1	2	3	4	5

REGISTRATION ACT.

FORM No. 3.

[see rule 28.]

Index No. 1.

NAME OF PERSON.	Residence, profession or trade, rank and title (if any), caste (if any), and father's name or mother's name.	Interest of person in the transaction.	Where registered.	Serial No.	Book I.	
					Volume.	Page.
1	2	3	4	5	6	7

FORM No. 4.

[see rule 28.]

Index No. II.

Name of property and mauza, or, in towns, of street or road to which property fronts.	Name of pargana, thana, or town.	District and sub-district.	Nature of transaction.	Where registered.	Serial No.	Book I.	
						Volume.	Page.
1	2	3	4	5	6	7	8

REGISTRATION ACT.

FORM No. 8

[see rule 53.]

Register of thumb impressions.

Impression of left thumb or other digit.	Name and signature of executant	Date of impression.	Book No. Document No.	Serial No. of impression.
1	2	3	4	
<i>Initials of Sub-Registrar (or Registrar.)</i>				

FORM No. 9.

[see rule 74.]

RECEIPT FOR ATTENDANCE AT A PRIVATE RESIDENCE.

(In duplicate.)

Received from

fee payable under article M of the table of fees for attending at a private residence,

travelling allowance for such attendance,

Dated 19 .*Sub-Registrar.*

FORM No. 10.

[see rule 99.]

REGISTER BOOK No. 2.

Record of Revenue for refusal to register.

Nature and date of instrument, and Name of Executants.	REASONS FOR REFUSAL.		Date of application for copy of the reasons for refusal.
	No.		Date on which the copy was furnished to the applicant.
			Note of the result of appeal to the Registrar under section 72 or of application under section 73.
			Note of any order of Court.
Date of presentation.			Date of communication of the order of refusal.
Name of the presenting party.	Dated _____ Registering Officer.		

FORM No. 11.

[see rule 99.]

REGISTER BOOK No. 5.

Register of Deposits of Wills.

Serial number of will deposited.	Year, month, day and hour.	Name and address of the testator and of his agent when the will is deposited by an agent of the testator	Names of the persons identifying the depositor.	Copy of superscription on the sealed cover.	Copy of inscription (if any) or the seal.	Date of order of withdrawal under section 44.	Date of application to open the cover under section 45.	Date on which the sealed cover is opened.	Date on which the will is copied in Book No. 3 under section 45 or section 46, and its serial number therein.	Date on which the will is removed into Court under section 46.	REMARKS.
1	2	3	4	5	6	7	8	9	10	11	12

N.B.—The Registrar's signature should be appended, with date, to entries in column 5 or 6, and his signature or initial to those in columns 7 to 11.

FORM No. 14.

[See rule 102.]

CHALAN.

Accountant's No. _____ of _____ Treasury,
Bengal, dated _____ 19 .

By whom brought.	Description of items.	Amount.	Total ...	
		Rs. A. P.		

Notes as per back ...	Rs. A. P.
Silver ...	
Copper ...	
Total ...	

Examined and entered _____
No. _____ of the Sub-Registry Office at _____
Date _____ 19 .

CHALAN.

Accountant's No. _____ of _____ Treasury,
Bengal, dated _____ 19 .

By whom brought.	Description of items.	Amount.	Total ...	
		Rs. A. P.		

Notes as per back ..	Rs. A. P.
Silver ...	
Copper ...	
Total ...	

Examined and entered _____
No. _____ of the Sub-Registry Office at _____
Date _____ 19 .

CHALAN.

Accountant's No. _____ of _____ Treasury,
Bengal, dated _____ 19 .

By whom brought.	Description of items.	Amount.	Total ...	
		Rs. A. P.		

Notes as per back ...	Rs. A. P.
Silver ...	
Copper ...	
Total ...	

Examined and entered _____
No. _____ of the Sub-Registry Office at _____
Date _____ 19 .

REGISTRATION ACT.

FORM No. 14.

(Reverse.)

NUMBER OF NOTES.

Registration Form No. 14.

Total	...		

NUMBER OF NOTES.

Registration Form No. 14.

Total	...		

NUMBER OF NOTES.

Registration Form No. 14.

Total	...		

200

REGISTRATION ACT.

FORM No. 15.

No.

[See rules 102 and 106.]

DAILY NOTICE.

The

19

It is hereby notified that the registration of the following documents was completed yesterday, and that these and all documents previously admitted to registration are ready to be returned to the parties who presented them.

Book No. 1.

Number of last document completed.	Date of admission.	Name of presentant.
1	2	3

Book No. 4.

Number of last document completed.	Date of admission.	Name of presentant.
1	2	3

Sub-Registrar.

N.B.—Documents (other than wills) remaining unclaimed in any registration office are liable by law to be destroyed unless taken away within a certain period.

FORM No. 16.

(See rule 102.)

Fee-Book.

Serial number of all documents.	Date of presentation.	Nature of document.	From whom received.	Value of property, in respect.	Article under which registration fee is chargeable.	Amount.	Date of admission or refusal.	No. of document in register-book.	Date of completion.	Volume in which registered.	Date of delivery.	No. of copies and memoranda to be issued.	Date when copies and memoranda issued.	REMARKS.
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
				Rs.	.	Rs.	A.							

FORM No. 17.

[See *rules 43, 49, 84 and 102.*]

RECEIPTS UNDER SECTION 52, CLAUSE (b).

To be returned by the grantant and posted into this same place.

Registration Form No. 17.

No. for 19 .

Serial No.

Document No.

Book No.

Received from

Document executed by

in favour of

Fees, ordinary : Art.

Fees, extra : Art.

Date on which document will be ready for return.

The document will be returned on presentation of this receipt.

Dated 19 . Sub-Registrar.

To be retained by the presentant.

No. for 19 .

Serial No.

Document No.

Book No.

Received from

Document executed by

in favour of

Fees, ordinary : Art.

Fees, extra : Art.

Date on which document will be ready for return.

Documents (other than Wills) remaining unclaimed in any Registration Office for a period exceeding two years are liable by law to be destroyed.

Dated 19 . Sub-Registrar.

FORM No. 17.

(REVERSE.)

Endorsed to

Signature of presentant.

Received from

**Sub-Registrar of
the document described on the other side**

Dated 19 .

Signature of recipient.

N. B.—The fees taken on the document specified herein will be refunded in case its registration is refused or any excess charge has been made; also if a visit or a commission has been paid for and not made. Parties should take their refunds in every case on this receipt.

FORM No. 18.

[See rules 80 and 102.]

REGISTRAR OF POWERS-OF-ATTORNEY.

Serial No. for the year.	Names and additions of principals.	Names and additions of attorney.	Names and additions of witnesses and identifiers.	Date of authentication.	Abstract.
1	2	3	4	5	6
					Copy of foot-note. <i>Sub-Registrar.</i>

FORM No. 19.

[See rule 102.]

Register of visits and commissions.

[illegible]

FORM No. 20.

[See rule 103.]

*Register of letters received in the office of the Registrar
of during the year .*

Register number.	Date of receipt.	Number and date of letter.	From whom received.	Subject of letter.	Number and date of disposal.	Previous correspondence.	Record number.
1	2	3	4	5	6	7	8

FORM No. 21.

[See rule 103.]

*Register of letters issued from the office of the Registrar
of during the year .*

Number.	Month.	Date.	Date of issue.	To whom addressed.	Subject of letter.	File in which the draft is placed.	Number and date of reply.	REMARKS.
1	2	3	4	5	6	7	8	9

FORM No. 22.

[See rules 103 and 104.]

Stock-book of furniture.

Serial No.	Description of article.	Price.			Date of purchase or supply.	Number and date of letter sanctioning purchase or supply.	Number and date of letter acknowledging receipt.	REMARKS.
1	2	3			4	5	6	7
		Ra.	A.	P.				

APPENDIX II.

FORM OF OATH OR AFFIRMATION.

[See rule 18.]

Form of oath and affirmation prescribed for witnesses by the High Court of Judicature of Fort William in Bengal under section 7 of Act X of 1873.

OATH.

I swear that the evidence which I shall give in this case shall be true, that I will conceal nothing, and that no part of my evidence shall be false.

So help me Ged.

AFFIRMATION.

I solemnly declare that the evidence which I shall give in this case shall be true, that I will conceal nothing, and that no part of my evidence shall be false.

Christian witnesses to whom oaths are administered are to be sworn upon the New Testament.

In other cases the oaths are to be administered upon such symbol, or accompanied by such act, as may be usual or as such witness may acknowledge to be binding on his conscience.

HOLIDAYS.

[See rule 33.]

Paragraphs 2 and 7 of Government Resolution No. 1624T.—F., dated the 31st October, 1901.

2. The holidays given in public offices are divided by the Government of India into four classes:—

- (i) those prescribed by section 25 of the Negotiable Instruments Act, 1881 (XXVI of 1881);
- (ii) those declared by the Local Government by notification under section 35 of the Negotiable Instruments Act to be public holidays;
- (iii) holidays announced by the Local Government to take effect in Government offices, either in respect of all classes of Government servants or in respect of the class who observe the fast or festival on account of which the holiday is announced;
- (iv) local holidays not announced by the Local Government but given at the discretion of the district authorities on the occasion of a local fair or festival or for some other reason.

7. With regarding to local holidays given at the discretion of the district authorities and included in class (iv), separate orders will be issued hereafter. Apart, however, from the holidays which may be allowed under those orders, and irrespective of any limit which may be fixed to their number, the head of any office may, subject to the control of his superior officers, give a holiday to his subordinates on the last Saturday of the month, provided that the state of the work admits of it. This holiday on the last Saturday of the month, and the holidays given on account of local festival, should be allowed to all establishments, subject to the condition laid down in the case of public holidays under the Negotiable Instruments Act.

APPENDIX II.

(ENDORSEMENTS.)

FORM No. 1.

[See rule 47.]

Endorsement of certificate of admissibility.

Admissible under rule 39: duly stamped (or exempted from stamp duty) under the Indian Stamp Act, 1899, Schedule I, No. 19.

Registering Officer.

FORM No. 2.

[See rule 50.]

Endorsement under section 52.

"Presented for registration at A.M. (or P.M.) on the day of 19 , at the Sub-Registry office (or at) by A. B., son of C. D., of by caste , by profession , [or attorney for E. F., one of the claimants under a power (No. for 19) authenticated by the Sub-Registrar of]."]

Signature of presentant.

Signature of Sub-Registrar.

FORM No. 3.

[See rule 50.]

Endorsement under section 58.

"Execution is admitted by A. B., son of C. D., of by caste , by profession

(Sd.) A. B.

"Identified by E. F., son of G. H., of , by caste , by profession

The of

(Sd.) E. F. 19

(Sd.) I. J.,

Sub-Registrar of

Notes 1.—When the document is presented by the executant himself, there need be only one endorsement in the following form:—

"Execution is admitted by the above A. B., who is identified by E. F., son of G. H., of , by caste , by profession "

2. "When execution is admitted by an agent, the following words shall be added:—

"Agent for K. L. under a power-of-attorney (No. for 19) authenticated by the Sub-Registrar of "

3. When the executant or his agent is personally known to the Registering Officer, the words "personally known to me" should be substituted for the identification clause.

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4. When execution is admitted by the representative of a deceased person, the following words shall be added :—

“Representative for *K. L.*, whose right to appear in such capacity has been proved to my satisfaction.”

5. When any payment of money or receipt of consideration is acknowledged, the following clause shall be added :—

“The receipt of rupees _____ as consideration is admitted by the above *A. B.*”

FORM No. 4.

[See rule 68.]

Endorsement of certificate of registration under section 60.

Registered in—

Book No.

Volume No.

pages

to

being No.

for the year

FORM No. 5.

[See rule 75.]

Endorsement on issue of commission.

A commission is hereby issued under section 33, sub-section (3) [or section 38, sub-section (2)] of the Indian Registration Act, 1908 (XVI of 1908), to [name and designation of the officer], for the purpose of inquiring whether this power-of-attorney (or document) has been executed by *A. B.*, son of *C. D.* of _____, by whom it purports to have been executed.

FORM No. 6.

[See rule 75.]

Endorsement on issue of commission to a Registrar of another district.

“A commission is hereby issued under section 33, sub-section (1) [or section 38, sub-section (2)] of the Indian Registration Act, 1908 (XVI of 1908), to the Registrar of _____, for causing the examination of *A. B.*, son of *C. D.* of _____, for the purpose of ascertaining whether this power (or document) has been executed by him; as it purports to have been.”

FORM No. 7.

[See rule 78.]

Endorsement by Commissioner after execution of commission.

“Having visited the residence of *A. B.*, son of *C. D.*, at _____, I have this day examined the said *A. B.*, who has been identified to my satisfaction by *E. F.*, son of *G. H.*, and _____ residents of _____.”

power (or document)."

Full signature of executant.

Ditto of witnesses.

Ditto of Commissioner.

FORM No. 8.

[See rules 78 and 81 (iii)]

Endorsement of Sub-Registrar on receipt of Commissioner's report.

"From the above report I am satisfied that this power (or document) has been executed (add "voluntarily," in the case of a power) by the said A. B. and (in the case of a power) I accordingly authenticate it under section 33 of Act XVI of 1908 and record it as No. for ."

(Sd.) Q. R.,

Sub-Registrar.

FORM No. 9.

[See rule 81 (i) and (ii).]

Endorsement on authentication of powers-of-attorney.

(a) When the principal executing the power appears at the registration office—

" Executed in my presence on the _____ day _____ 19____
by A. B., son of O. D., of _____, by caste _____,
by profession _____, who is personally known to me (or
whose identity was proved by the testimony of E. F., son of G. H.,
of _____); and I accordingly authenticate it under section 33,
Act XVI of 1908, and record it as No. _____ for 19____."

Full signature of Principal.

Ditto of witness or witnesses.

Seal and signature of Registering officer.

Date _____

(b) When the principal is exempted from appearance—

"Having visited and examined at his (or her) residence the principal, A. B., son of C. D., of _____, by caste _____, by profession _____, who is personally known to me (or whose identity was proved by the evidence of E. F., son of G. H., of _____), I am satisfied that this power-of-attorney has been voluntarily executed by him (or her); and I accordingly authenticate it under section 33 of Act XVI of 1908, and record it as No. _____ for 19____."

Full signature of Principal.

Ditto of witnesses.

Date _____

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FORM No. 10.

[See rule 89.]

*Endorsement on use of a special power-of-attorney.*Presented this day
Date

(Sd.) A. R.

[Seal] Registrar or Sub-Registrar of

Table of Fees under the Indian Registration Act, 1908 (XVI of 1908).

The following revised Table of Fees, which has been prepared for the Presidency of Fort William in Bengal by the Governor in Council in pursuance of section 78 of the Indian Registration Act, 1908 (XVI of 1908), in supersession of all previous notifications on the subject including (all notifications on the subject issued by the late Eastern Bengal and Assam Government), and has been approved by the Governor-General in Council, is hereby published for general information in accordance with the provisions of section 79 of the same Act.

2. The revised Table of Fees shall come into force on the 1st May 1913.

H. F. SAMMAN,

*Offg. Secy. to the Govt. of Bengal.***Table of Fees under the Indian Registration Act, 1908 (XVI of 1908).**

[N.B.—If these article "section" means a section of the Indian Registration Act, 1908.]

I.—ORDINARY FEES.

A. (1) The fees payable for the registration of the documents described below shall be calculated on the following *ad valorem* scale according to the value of the right, title and interest affected, when such value is expressed in the document :—

	Rs.	As.
When the value does not exceed Rs. 50 ...	0	8
When the value exceeds Rs. 50, but does not exceed Rs. 100 ...	0	12
When the value exceeds Rs. 100, but does not exceed Rs. 250 ...	1	0
When the value exceeds Rs. 250, but does not exceed Rs. 500 ...	1	8
When the value exceeds Rs. 500, but does not exceed Rs. 1,000 ...	2	0
For every additional Rs. 1,000 or part thereof ...	1	0

DESCRIPTION OF DOCUMENTS.

Conveyances and bills of sale, deeds of gift or dower, settlements, deeds of partition, leases, deeds of mortgage or instruments of further charge, bonds of all kinds except indemnity and security bonds, assignments of any interest secured by a bond or mortgage deed, policies of insurance, bills of exchange and promissory notes and generally all other documents of the nature of those hereinbefore mentioned.

(2) When the value of the right, title and interest affected is not expressed in such documents, a fee of Rs. 10 shall be payable.

Explanation—

(1) In cases of conveyances and bills of sale where any consideration is expressed, such consideration; in the case of a deed of gift, the value of the property thereby disposed of; in cases of deeds of dower and settlement, the amount of dower and the value of the property settled; in the case of a document securing periodical payments, other than a lease, the amounts payable for one such period in addition to any amount other than such periodical payments, paid or payable as consideration for such document; and in the case of bonds, mortgages and instruments of further charge, the amount thereby secured, shall be taken to be the value of the right, title and interest affected within the meaning of this article.

(2) In the case of leases as classified below, the amounts specified against each class shall be taken to be the value of the right, title and interest affected within the meaning of this article:—

Class of leases.

Amount representing the value of right, title and interest affected.

(a) A lease by which the rent is fixed, but in respect of which no premium or fine is paid or delivered and no money is advanced, and which is granted—

- (i) for a period of less than one year, or
- (ii) for a specified period of one year or more, but not exceeding ten years, or
- (iii) for an indefinite period, or...
- (iv) for a period exceeding ten years, or
- (v) in perpetuity ...

The total sum payable under the lease.

An amount equal to the average annual rental.

An amount equal to two years' rent.

(b) A lease which is granted for a fine or premium or for money advanced and by which no rent is reserved.

The amount of the fine, premium or money advanced.

(c) A lease which is granted for a fine or premium or for money advanced in addition to rent reserved.

The total of (1) the amount of the fine, premium or advance, (2) the amount which would be calculated in the case of the lease under clause (a) if no fine, premium or advance had been paid or delivered.

(3) In the case of partition deeds the value of the share or shares on which stamp duty is payable under Article 45 in Schedule I to the Indian Stamp Act, 1899, shall be taken to be the value of the right, title and interest affected within the meaning of this article:

Provided that—

- (a) if a *patta* or lease given to any *raiyat*, and the *kabuliyat* or counterpart of such lease executed by such *raiyat*, be presented for registration at the same time, the fee payable for

the registration of the *patta* shall be half of what would have been payable if the *patta* alone had been presented and the fee payable for the registration of the *kabuliyat* shall be equal to that payable for the registration of the *patta*.

- (b) an instrument so framed as to come within two or more descriptions of the documents enumerated above shall, when the fees chargeable thereunder are different, be charged with the highest of such fees ;
- (c) the fee on any instrument comprising or relating to several distinct matters shall be the aggregate of fees with which separate instruments each comprising or relating to one of such matters would be chargeable ;
- (d) when a document which has been executed by only some of the parties to it is presented for registration, the other parties or any of them may attend and execute the document and admit execution thereof without the payment of any further fee, so long as a certificate of registration has not been endorsed thereon and duly signed, sealed and dated under section 60 ; but if the registration of the document has been completed, it must be presented afresh for registration, and a second fee shall be payable ; and
- (e) the fee leviable for the registration of a document purporting to give collateral or auxiliary or additional or substituted security, or security by way of further assurance, where the principal or primary mortgage is proved to the satisfaction of the registering officer to have been duly registered, shall be the same as for the principal or primary mortgage, if the same does not exceed Rs. 2, but shall in no case be more than Rs. 2.

B. The fee for the registration of a separate instrument acknowledging the receipt or payment of any sum of money, whether consideration on account of any deed of sale or mortgage, or rent on account of any lease, or other value expressed in any document, shall be calculated, according to the amount received, on the *ad valorem* scale fixed under Article A :

Provided that if any instrument referring to the same transaction has already been registered, such fee shall not exceed Rs. 2.

C. In the case of wills, fees shall be paid as follows :—

- | | |
|---|-----|
| (i) for the deposit or withdrawal of a sealed cover containing a will | Rs. |
| ... .. | 2 |
| (ii) for opening such cover (in addition to the fee for copying the contents which shall be charged according to the scale laid down in Article G for the granting of certified copies) | 2 |
| and | |
| (iii) for the registration of a will or authority to adopt when presented open | 4 |

D. The fee for the registration of an agreement for personal service shall be 8 annas only.

E. The fee for the registration of any document not mentioned or described in any of the foregoing articles shall be Re. 1.

NOTE.—Provisions (c) and (d) to Article A apply also to Articles B, C, D and E.

F. (1) Fees payable for searching the indexes and inspecting the registers shall be as follows :—

(i) for the first year for each entry or document for which search of the indexes of a specified office is made...	As. 8
(ii) for every other year as aforesaid ...	4
(iii) for each Register Book 1, 2, 3, or 4 inspected ...	8

Provided that—

- (a) no fee for the search or inspection of the registers of any one office in respect of any one entry or document shall exceed Rs. 5 ;
- (b) no fees for the search or inspection of the registers of any one office in respect of any number of entries or documents relating to one and the same property shall exceed Rs. 10 ; and
- (c) no fee for search shall be payable if in any application for a copy of an entry or for inspection of an entry, the nature of the document, the date of registration, the register and volume in which it is copied and its number in such volume are shown.

(2) Every application for the grant of a certified copy, except at the time of the registration of a document, shall subject to proviso (c) above, be accompanied by the fee prescribed for searching the indexes.

G. For making or granting copies of reasons, entries or documents before, on, or after registration, a fee shall ordinarily be charged at the rate of one anna for every 100 words in the vernacular character, and two annas for every 100 words in the English character :

Provided that, if an applicant requires such copies to be furnished on the day of application, an extra fee of one rupee or, if the copies exceed four pages of 300 words, of four annas for each page, shall be charged on all copies so furnished.

II.—EXTRA OR ADDITIONAL FEES.

H. For the registration by any Registrar (other than the Registrar of Calcutta) of any document under sub-section (1) of section 30, an extra fee equal to the ordinary fee, or an extra fee of Rs. 5, whichever is less, shall be charged.

I. For the registration under sub-section (2) of section 30, by the Registrar of Calcutta, of any document relating to property, when no portion of such property is situated within his district, a fee of Rs. 10 shall be charged.

J. (1) The fee for the attendance, under section 31, of an officer at a private residence for acceptance for registration of any document or for acceptance for deposit of any will or authority to adopt, shall be Rs. 10.

(2) In addition to such fee, travelling allowance shall be paid to the registering officer at the rate of four annas a mile for the actual distance to be travelled, provided that the place to be visited is more than one mile from the registration office :

Provided that, in towns where carriages are available on hire, registering officers shall be paid carriage hire for two hours in lieu of travelling allowance, whether the distance travelled be greater or less than one mile.

K. (1) Before the issue of a commission or before the registering officer or Magistrate personally proceeds to any dwelling-house or jail to

obtain evidence as to the voluntary nature of the execution of a power-of-attorney under sub-section (3) of section 33, and before the issue of a commission or before the registering officer personally proceeds to any dwelling-house or jail for the examination of any person under sub-section (2) of section 38, the following fees shall be paid on account of persons exempted from appearance :—

(a) for every person exempted on account of bodily infirmity, for every person confined in jail and for every *pardanashin* lady exempted by law from personal appearance in Court, Rs. 5; and

(b) for every person, other than a *pardanashin* lady, who is exempted by law from personal appearance in Court Rs. 10.

(2) In addition to such fees, travelling allowance shall be paid in every case to the registering officer or the Magistrate or the person to whom the commission has been issued, as the case may be, at the rate of four annas a mile for the actual distance to be travelled, provided that the place to be visited is more than one mile from the Court or registration office :

Provided that, in towns where carriages are available on hire, the registering officer or the Magistrate or the person to whom the commission has been issued, shall be paid carriage hire for two hours in lieu of travelling allowance, whether the distance travelled be greater or less than one mile.

NOTES REFERRING TO ARTICLES H, I, J AND K.

(i) When two or more copies of a document executed by the same parties are presented for registration at the same time, an ordinary fee shall be payable for each copy ; but any extra or additional fee which is payable under Article H, I, J or K shall be charged as for one document only, no matter how many copies of that document may be presented for registration

(ii) No extra fee shall be payable under Article H when a document is registered by a Registrar, acting as Sub-Registrar, or by a Registrar in consequence of the Sub-Registrar, by whom it should be registered under section 28, being a party interested in the transaction to which such document relates

(iii) Where two or more persons who execute the same document or documents relating to the same transaction present it or copies thereof for registration at one and the same time and at a private residence under section 31, or where the registering officer or Magistrate examines or issues a commission for the examination of two or more such persons at one and the same time under section 33 or section 38, as the case may be, only one fee under Article J for the attendance of the registering officer or one fee under Article K for the attendance of the registering officer or the Magistrate or for the issue of the commission, as the case may be, shall be charged so far as those persons are concerned.

L The fees chargeable for authenticating or attesting the execution of a power-of-attorney shall be as follows :—

				Rs.
(i)	For a special power	...	...	1
(ii)	For a general	...	...	2

M. For every copy or memorandum of a document to be forwarded to another office under section 64, 65, 66 or 67, there shall be paid an extra fee equivalent to that payable under Article A, B or E :

Provided that the fee for a copy shall not exceed Rs. 10, and the fee for a memorandum shall not exceed Re. 1.

N. Besides the fees payable under Articles A, B, C, D and E, there shall be paid, for the registration of every document of such length as to occupy more than two pages of the register, an extra copying fee at the rate of four annas for every page or part thereof in excess of the first two pages.

MODE OF CALCULATION.

Assuming 300 hundreded words to the page, such copying fee may be calculated by counting the number of words in the documents or, if no such calculation is made by the party presenting the document, the registering officer shall estimate the number of pages likely to be thus charged for, but the fee shall in every case be payable on presentation, and in case of miscalculation the document shall not be returned until any deficiency in the fee levied is made good.

Example.—A conveyance is presented for registration containing 1,350 words. If the party presenting the document certify to this fact, the registering officer will at once proceed to charge a fee for three pages ($1,350 - 600 = 750$), i.e., 12 annas. If the number of words is not known, the registering officer may charge for two extra pages, or eight annas only, and the deficiency of four annas must be made good before the document is returned.

O. When a document remains unclaimed for more than one month after completion of registration, a fee of four annas shall be charged for every month or part of a month beyond the first month after such completion. The total amount of such fees shall not exceed Rs. 5 in any case.

P. When a document remains unclaimed for more than one month after refusal of registration, a fee of four annas shall be charged for every month or part of a month beyond the first month after such refusal. The total amount of such fees shall not exceed Rs. 5 in any case.

NOTE REFERRING TO ARTICLES O AND P.

A Registrar is empowered to remit, in whole or in part, the fees chargeable under Articles O and P in any case in which it appears to him that the realization of such fees would be clearly productive of injustice or hardship.

EXEMPTIONS.

The following classes of documents are exempt from the payment of registration and in the case of (6) of copying fees :—

- (1) documents executed by or on behalf of, or in favour of, Government on which as such no stamp duty is leviable under the law for the time being in force [*vide* section 3, proviso (1), of the Indian Stamp Act, 1899] ;
- (2) security bonds and penalty bonds executed in favour of Government or local authorities by public servants of all classes and their sureties ;
- (3) bonds executed by non-gazetted or menial officers of Government for the due performance of their duties and bonds or mortgage

- deeds executed by private parties as security for the performance of their duties by such officers ;
- (4) mortgage bonds executed by Government officers in favour of Government as security for building advances ;
 - (5) instruments executed by persons taking advances under the Agriculturists' Loans Act, 1884, or by their sureties as security for the repayment of such advances ; and
 - (6) copies of entries, documents or maps required by Government officers for *bond fide* public purposes.
-

APPENDIX III.

RULES FOR THE REGISTRATION OF DOCUMENTS UNDER THE BENGAL TENANCY ACT, VIII OF 1885.*

1. The sections of the Tenancy Act, which refer to the registration of documents, are sections 12, 18, 85, 175 and 176.
- Leading provisions.*

Section 12 has been amended by Act VIII of 1886, and has reference only to the transfer of a permanent tenure by gift, voluntary sale, or usufructuary mortgage, i.e., where the mortgagor delivers possession and authorises the mortgagee to retain the rents and profits accruing from the property mortgaged [section 58 (d) of the Transfer of Property Act, IV of 1882].

Section 18 enacts that a raiyati holding at a fixed rent or fixed rate of rent is subject to the same provisions with respect to its transfer by gift, sale or mortgage as a permanent tenure.

The period allowed by section 175 for the registration of a certain class of documents expired on the 31st October, 1886, and after that date their registration was barred.

Section 176 relates to the notification of incumbrances to the landlord. For definition of term "incumbrance," see section 161.

2. A document presented for registration under sections 12, 18, and 175, shall be first examined with reference to Registration Rule 41, and next with reference to the particular section of the Tenancy Act under which it is presented. Care should be taken not to carry out the procedure under sections 12 and 18, unless it appears *on the face of the deed itself* that the tenure transferred is a permanent tenure, or that the holding transferred is a holding at a rent, or rate of rent, fixed in perpetuity.
- Examination of the deed.*

The Lieutenant-Governor sanctioned the withdrawal of Rule No. 3, see Notification No. 1881, P., dated the 19th September 1899, *Calcutta Gazette*, Part 1, September 20, 1899, page 1233. Rule 3 stood thus :—

3. Under section 88 of the Tenancy Act, a division of a tenure or holding, or distribution of the rent payable in respect thereof shall not be binding on the landlord, unless it is made with his
- Fractional shares of tenures and holdings.*

* See *Calcutta Gazette*, Part I, March 23, 1885, p. 225.

consent in writing. When, therefore, it appears from the documents that only a fractional share of a tenure or holding is being transferred, and the landlord's consent in writing is not produced the procedure under sections 12 and 18 should not be carried out.

4. When a sub-lease executed by a raiyat purporting to create a term exceeding nine years is presented for registration, it shall be returned at once with a note to the following effect recorded on its back, viz., "*Not admissible under sub-section 2, section 85 of the Bengal Tenancy Act.*" The note shall be signed, sealed, and dated by the registering officer. The order of refusal will be entered in Book II.

Refusal of registration of sub-leases executed by ryots creating a term exceeding nine years.

5. In certifying the admissibility to registration of a document presented for registration under these rules, the registering officer shall quote Registration Rule 41 as well as the particular section of the Tenancy Act under which it is admitted. Thus: *Admissible under Rule 41, also under section of the Bengal Tenancy Act. Correctly stamped under the Indian Stamp Act, Schedule , No.*

The fees levied shall be noted below the certificate of admissibility in the following manner, viz. :—

Fees paid A	...	...	1	0	
Ditto. R	...	...	1	4	
			—		2 4
Landlord's fee	...	...	2	0	
Process-fee (in court-fee stamps)	...	...	0	12	
Peon's charges, &c.	...	...	0	8	3 4
			—		
Total	...	...	5	8	

Sub-Registrar.

6. The amount of landlord's fee, peon's charges, &c., shall be entered in the printed receipt for the document granted under section 52 of the Registration Act. In calculating the amount of landlord's fee, pie should be omitted.

Receipts for fees.

7. The document shall be entered in the registration fee-book in order of presentation in the same manner as any other document presented under the Indian Registration Act. The registration fee shall be credited in column 7 with the necessary details, and included in the total of other registration fees for

All documents to be entered in the ordinary Registration Fee-book.

credit to Government. The serial number of the document in the Tenancy Act fee-book shall be noted in the column of remarks of the registration fee-book with letters T. A. for reference.

8. Fees for processes shall be paid in court-fee stamps.

Process fee These stamps shall be affixed to the *application for issue of processes issued*, certifying that the fees have been paid, and the applications being retained in the offices of the registering officers. The stamps shall be cancelled by the registering officers in the manner prescribed in section 30 of the Court Fees Act, i.e., by punching out the figure head so as to leave the amount designated on the stamps untouched. The pieces punched out shall be immediately destroyed.

9. Charges on account of peons' railway fare, boat hire or

Peon's charges. ferry charges shall be levied according to the rule quoted in paragraph 3 of Appendix A, subject to the instructions of the Collector of the District.

10. Landlord's fees, process fees, and charges, on account

Tenancy Act Fee-book of peon's railway fare, boat hire, or ferry charges, shall not be shown in the registration fee-book, but shall be shown separately in a fee-book called the Tenancy Act fee-book.

Tenancy Act Fee-book.

Serial number of notice.	Serial number of document in Book I.	Date of presentation.	From whom received.	Nature of document.	Annual rent.	Landlord's fees.	Process for in court-fee stamps.	Peon's boat-hire, railway fare or ferry tolls.	Number of chalan or money order used for remitting the fees to the Collector.	Number and date of letter sending notices to the Collector.	Signature of the registering officer.	REMARKS.
1	2	3	4	5	6	7	8	9	10	11	12	13
					Rs. A. P.	Rs. A.	Rs. A.	Rs. A.				

11. Column 1 of the Tenancy Act fee-book should be filled up on the presentation of the document, whether the particular notice is ready or not. The number in that columns should be trans-

Mode of filling up Tenancy Act fee-book.

ferred to the notice when it is ready. Columns 3 to 9 should also be filled up immediately on the presentation of the document. Columns 10 and 11 should be filled up on the date on which the notice and landlord's fees are sent to the Collector or the sub-divisional officer, as the case may be. The registering officer should affix his initials to each entry in column 11 of the Tenancy Act fee-book. The serial number of a copy sent under section 176 should be entered in the column of remarks.

12. Columns 7, 8 and 9 of the Tenancy Act fee-book shall be totalled daily, and the daily totals of all cash receipts—that is, all receipts except process fees paid in court-fee stamps—shall be posted in the cash-book under the heads of landlord's fees and peons' charges, &c.

Preparation and forwarding of Notices under sections 12 and 18 of the Tenancy Act.

13. In the case of documents relating to the transfer of tenures under section 12, or of raiyati holdings at fixed rates under section 18, notices shall be prepared in accordance with Rule 1, Chapter V of the General Rules under the Tenancy Act, reprinted in Appendix B, as soon as execution has been admitted and the executant identified, and the endorsements referring thereto have been recorded. The form of the notice is shewn in Schedule I of Appendix B.

14. The scale fees to be levied for the service of notices is laid down in Appendix A.

15. When two or more persons are joint landlords and have ~~no~~ common Agent or Manager, only one notice should be issued and a single process fee levied.

16. The notice referred to in the preceding rule should be served in the manner directed in Appendix B. Postal charges for sending copies of notices under section 12 of the Bengal Tenancy Act to landlords should be met from, and not added to, the process fee. Postal charges for sending copies of notices to the Collector for transmission to landlords should be debited to the Registration Department, and those that may be incurred for their despatch to landlords from the Collectorate should be met by the Collector.

17. All notices or copies of notices shall be prepared in and shall, with peons' charges, &c., be forwarded to the Collector of the district or the sub-divisional officer of the sub-division,
Notice, &c., how to be forwarded.

as the case may be, in which the landlords reside, for service upon them, under a covering letter. The form of the covering letter and of the notice will be found in Appendix B.

The landlord's fees will be forwarded to the Local Treasury Officer or Sub-Treasury Officer, as the case may be, under a covering letter to the following effect :—

To—The ^{Treasury}
Sub-Treasury. Officer of

SIR,

PLEASE receive for deposit Rs....., being the amount of landlords' fees deposited by.....for payment to....., the landlord or to some person authorized on his behalf to receive it. The amount should remain at his credit, and should be paid to him, or sent to him, through peon or transferred to his revenue account, on application by him.

I have, &c.,

Sub-Registrar.

Serial number of notice sent to landlords.	Name of landlords.	Their addresses.
56		
57		
58		
Total		

Seal.

18. Where it is necessary to issue more notices than one, only one serial number should be entered in column 1 of the Tenancy Act fee-book. There will thus be one original notice in which the names of all the proprietors concerned will be entered, and as many copies of this original notice will be made as are necessary, each copy bearing the serial number of the original notice.

19. One copy of the original notice shall be filed for reference in the Registration office, a note being made upon it of the number of copies sent.

Draft copy to be filed
in the office.

20. The Lieutenant-Governor sanctioned the withdrawal

of the Rule 20, Notification No. 1713 P. See *Calcutta Gazette*, Aug. 7, 1901, Part 1, p. 1015 Rule 20 was as follows :—

No notice required when landlord is himself the transferee.

20. When the landlord is himself the transferee, there is no occasion to levy fee or send notice.

Notices for landlords in Calcutta.

21. Notices for landlords in Calcutta should be sent to the Collector of the 24-Parganas for service.

22. When a transferred tenure or holding is held jointly by several landlords residing in different districts, the notices with peon's charges and the landlords' fees should be sent to the Collector and the Treasury Officer, respectively, of the district in which the tenure or holding is situate.

Case of several landlords residing in different districts.

Notification—No. 593 P.

The 19th February 1900. It is notified for general information that the following rule has, with the approval of the Lieutenant-Governor, been substituted for Rule 23 of the Rules for the registration of documents under the Bengal Tenancy Act, VIII of 1885, framed under section 69 of the Indian Registration Act, III of 1877, which were published under Government notification No. 919 P., dated the 21st March 1898, at pages 235 to 330 in Part 1 of the *Calcutta Gazette* of the 23rd idem :—

“23. Landlords' fees shall be remitted to the treasury with the same regularity as is required in the case of remittance to the treasury of ordinary registration receipts, provided that such fees shall not be forwarded to the treasury until the registration of the deeds on which they are levied has been completed.”

Remittance of landlords' fees, &c.

The former Rule stood thus :—

23. Landlords' fees must be remitted to the Treasury Officer with the same regularity as is required in the case of remittance to the Treasury of ordinary registration receipts.

Remittance of landlords' fees, &c.

24. Two separate chalangas shall be prepared, one for the landlord's fees credited in the Tenancy Act fee-book and sent to the Treasury Officer, and the other for the peon's charges, &c., credited in the Tenancy Act fee-book and forwarded to the Collector. For this purpose the details shall be entered on the reverse of the chalangas. These shall be as follows :—

Form of chalan.

A.

Details of landlords' fees deposited.

1	2	3	4
Serial number of chalan.	Amount of landlords' fees deposited.	Name of depositor.	Name of the landlord to whom payable.
	Rs. A. P.		

B.

Details of peon's charges, &c.

1	2	3	4	5
Serial number of challan.	Number of notices.	Name of Depositor.	Name of the person to whom to be served, and details of peons' charges, &c.	AMOUNT.
				Rs. A. P.

25. Any fees realized which may remain in the hands of the registering officer may be refunded if the document is refused registration, a note to that effect being made in the column of remarks in the fee-book. Court-fee stamps may be returned, if they have not been punched. It is not necessary to enter these refunds in the monthly returns.

Refund of Tenancy Act fees.

26. A statement of operations under sections 12 and 18 of the Tenancy Act shall be submitted monthly by Sub-Registrars. A statement for the whole district countersigned by the Collector and the Treasury Officer shall be submitted by each Registrar to the Inspector-General. The form of the statement will be found in the Appendix. The statement can be easily compiled from the fee-book, if column 5 is carefully filled up.

Notification of Incumbrances to the Landlord under section 176 of the Tenancy Act.

27. An application under section 176 for the notification of incumbrances to the landlords may be made either verbally or in writing, and when made

Application how made.

in writing, it shall bear a court-fee stamp of annas eight. It shall be accompanied by the fee for the copy under Articles G and H of the schedule of fees under the Registration Act, as well as by the amount of process fees. A receipt for the amounts thus taken shall be granted in the form (with necessary alteration) of receipt prescribed under section 52 of the Registration Act.

28. An entry shall at the same time be made in the Registration fee-book, and the fees credited to the Registration Department. The process fee shall be accounted for in the Tenancy Act fee-book, as directed in Rule 10. The serial number of the copy sent shall be noted in the column of remarks in the Tenancy Act fee-book.

29. The copy of the instrument under section 176 shall be forwarded to the Collector or the Sub-divisional Officer, as the case may be, with a covering letter to the following effect:—

Copy of instrument to be forwarded with covering letter.

No.

Dated

To—The

SIR,

I HAVE the honor to forward the copy herein enclosed, and to request that it may be served on *A. B.*, resident of....., as required by section 176, Act VIII of 1885, Court-fee stamps for process fee of Rs.are affixed to the copy.

I have, &c.,

Sub-Registrar of

A notice in the form prescribed in Rule 17 is not required in transmitting a copy to the Collector or the Sub-divisional Officer under section 176. The stamps received under that section are to be treated in the same manner as directed in Rule 8.

30. A copy of an instrument served in order to notify an incumbrance is equivalent to a notice under section 12, and registration officers are referred to Rule 3, Chapter I of the General Rules under the Tenancy Act, quoted below for the procedure to be followed in serving such a copy.

Process fee.

31. For every copy made under section 176 of the Bengal Tenancy Act, VIII of 1885, such copying fee, or copying and searching fees shall be charged as may be leviable under Article G, or under Articles G and H

Copying fees.

of the schedule of fees under the Registration Act for the time being in force. These shall be shown in the ordinary registration fee-book, and not in the Tenancy Act fee-book.

APPENDICES TO REGISTRATION RULES UNDER THE TENANCY ACT.

APPENDIX A.

Scale of Fees (Sections 12 and 176 of the Bengal Tenancy Act, VIII of 1885).—See Chapter VII of the General Rules framed by Government under the Tenancy Act.

(1). *For services of notices*—For the service of every notice under the Bengal Tenancy Act, VIII of 1885, not being a notice issued by any Revenue or Civil Court (fees for serving which are regulated by the Court Fees Act), and not being provided for by any other rule made under this Act, a process fee of 12 annas shall be levied, if the notice be directed to one or more persons residing in the same village.

(2) Where such notices are directed to several persons resident in different villages, a fee of 12 annas shall be levied for service in each village.

(3) In addition to the above fee, the actual charge, which must be incurred, if it is necessary to travel by railway or boat, or cross ferries, will be levied from, and paid by, the person at whose instance the process is issued, before issue of the process. If a peon carries more than one process, involving charges for railway fare, boat-hire, &c., the sum leviable will be charged in equal shares upon all the processes so carried. The rates at which such boat-hire is to be charged shall be the same as those fixed for criminal processes under Rule VII of the rules prescribed by the High Court under clause 2, section 20, Act VII of 1870, and shall be sufficient only to cover, on the whole, the actual cost of hiring boats, or of such boat establishment as it may be necessary to maintain for the purpose of serving processes of these classes.

APPENDIX B.

Service of Notices under section 12 of the Bengal Tenancy Act, VIII of 1885, see Chapter V of the General Rules.

(1). *Section 12.*—Notices under this section shall contain,

so far as may be possible, the particulars given in the forms specified in schedule I, and shall be served on the landlord, or his agent; or, where two or more persons are joint landlords, on their common agent, referred to in section 188, or on their common manager appointed under section 95, as the case may be, in the manner prescribed for the service of a summons on a defendant under the Code of Civil Procedure. Where there is more than one landlord, and no common agent or common manager has been appointed, the notice shall be served by being posted on the landlord's village office, if any; and if there be no village office, by fixing it up in the presence of not less than two persons on some conspicuous place on the tenure, and a copy shall also be forwarded by post in a letter registered under Part III of the Indian Post Office Act, to the person or persons to whom immediately preceding the transfer the rent had ordinarily been paid. The landlord's fee will be held in deposit in the Collector's office until applied for by the landlord or some other person authorised on his behalf to receive it, or to send it to him through peon. The officer who will sign the notices shall initial the entry on account of the landlord's fee in the Deposit Register kept in the Treasury.

SCHEDULE I.

Notice under Section 12, Act VIII of 1885

To The Collector
Sub-divisional Officer

LET this notice be served on *A. B.*, resident of _____, as required by section _____, Act VIII of 1885. Peon's charges, &c., amounting to Rs. _____, is forwarded herewith.

C. D.

Registering Officer.

To—*A. B.*, resident of _____

TAKE notice that the transfer of the tenure [or raiyati holding at fixed rates (as the case may be)] specified below, of which you are alleged to be the landlord, has been registered, and that the landlord's fee of Rs. _____ will be held in deposit in Collector's Office till applied for by you, or some person authorized on your behalf to receive it. The amount stands at your credit, and will be paid to you, sent to you through peon or transferred to your revenue account on application :—

APPENDIX III.

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Transferee of estate.	Name of estate.	Description of tenure transferred with village and pargana in which situated.	Annual rent of tenure.	Name, father's name, and residence of transferee of tenure.	Name, father's name and residence of transferee of tenure.	Nature of transfer.	Date of registration of transfer.	Amount of landlord's fee.	REMARKS.
1	2	3	4	5	6	7	8	9	10
								Rs. A. P.	

C. D.
Registering Officer.

ORDERED that this notice be served on the above-named landlord.

E. F.
Collector.

RECEIVED a copy of the above-mentioned notice.

Landlord.

APPENDIX C.

Statement showing the operations under sections 12 and 18, Bengal Tenancy Act, in the
for the month of 189 .

Registry Office at

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Eastern Bengal and Assam Gazette, Nov. 11, 1908.

PART II, p. 1776.

The 7th November 1908.

No. 2499R.—In exercise of the powers conferred by Sections 5 and 5A of the Scheduled Districts Act, XIV of 1874, and with the previous sanction of the Governor-General in Council, the Lieutenant-Governor of Eastern Bengal and Assam is pleased to extend the Bengal Tenancy (Validation and Amendment) Act of 1903 (Bengal Act I of 1903) and the Eastern Bengal and Assam Tenancy (Amendment) Act of 1908 (Eastern Bengal and Assam Act I of 1908) to the portion of the Jalpaiguri district known as the Western Duars, with effect from this date, subject to the following restrictions and modifications, namely :—

- I. Nothing in the said Acts shall apply to any lands heretofore or hereafter granted or leased by Government to any person or Company under an instrument in writing for the cultivation of tea or for the reclamation of land under the Arable Waste Land Rules.
- II. Where there is anything in the said Acts which is inconsistent with any rights or obligations of a *jotedar*, *chukanidar*, *dar-chukanidar*, *adhiar*, or other tenant of agricultural land as defined in settlement proceedings heretofore approved by Government, or with the terms of a lease heretofore granted by Government to a *jotedar*, *chukanidar*, *dar-chukanidar*, *adhiar*, or other tenant of agricultural land, such rights, obligations or terms shall be enforceable notwithstanding anything contained in the said Acts.

Eastern Bengal and Assam Gazette, Nov. 18, 1908.

PART II, p. 1859.

The 7th November 1908.

No. 2498R.—In exercise of the power conferred by Sections 5 of the Scheduled Districts Acts, XIV of 1874, and with the previous sanction of the Governor-General in Council, the Lieutenant-Governor of Eastern Bengal and Assam is pleased to extend the Bengal Tenancy (Validation and Amendment) Act of 1903 (Bengal Act I of 1903) and the Eastern Bengal and Assam Tenancy (Amendment) Act of 1908 (Eastern Bengal and Assam Act I of 1908) to the whole of the Jalpaiguri district, except the Western Duars, with effect from this date.

APPENDIX IV.

RULES UNDER THE REGISTRATION ACT.

(For the Presidency of Bombay.)

The following Rules framed by the Inspector-General of Registration, Bombay, in exercise of the powers conferred by the Indian Registration Act, 1877, in supersession of all Rules at present in force under Section 2 of that Act, having been approved and sanctioned by Government, are published for general information :—

I.—REGISTER BOOKS.

1. *Forms of the Register books, Nos. I to V.*—The Register Books, Nos. I to V, prescribed in Section 51, shall be kept in the forms of Appendices A, B, C, D and E, respectively. When the stock of books issued under Act XX of 1888 or Act VIII of 1871, in any office is likely to last for any length of time, the Inspector-General will issue directions for the renumbering or re-labelling of such books, so as to adapt them for use under the present Act.

2.† *Additional Book No. I.*—A special volume of Register Book No. I, to be called 'Additional Book No. I,' in the form of a File Book with numbered butts may be opened in any office where documents executed by, or in favour of, Government, or a local body (including a Cantonment Committee), on printed or lithographed forms are presented for registration. The copy of each such document and endorsements required for entry in the register shall be made by filling in the blanks in a spare copy of the printed or lithographed form and by copying the endorsements written on the original on the reverse of the last page of the copy of the form thus prepared, or on a separate sheet of paper when necessary. Each sheet of the copy thus made shall then be pasted on a separate numbered butt in the Additional Book No. I, and the Registering Officer shall write his signature and the date and shall affix the seal of the office, so that both signature and seal may be partly on each butt so used and partly on the sheet pasted thereon. All documents entered in the additional volume of Book No. I shall be numbered in the same series as documents copied in the ordinary volume. Whenever any such document is transferred to the said Additional Book No. I, a brief note showing that the document bearing number so and so has been pasted into the additional volume of Book No. I at page so and so shall be inserted in the ordinary volume of Book No. I at the place where the document in question would have been copied but for the opening of this Additional Book No. I. The form of the printed butts shall contain the following particulars :—

Column 1.—Serial number of document. (This column should also be used for notes of errors, erasures, interlineations, etc., at present made under Registration Rule 49 in column 1 of the ordinary Register Book.)

Column 2.—Value of stamp, nature and value of transaction, amount of registration and other fees and fines levied.

2A †. *Supplement to Book No. I.*—For the purposes of Sections 64, 65, 66 and 67 a separate File Book forming a supplement to Book No. I is to be kept, to be called "Supplement to Book No. I, Part I," copies of maps or plans, such as those mentioned in Section 21, should be filed in a File Book, forming another Supplement, to be called "Supplement to Book No. I, Part II," and certificates under the Land Improvement Act, 1883, received by a Registering Officer under Section 89 should be filed in another supplement, to be called "Supplement to Book No. I, Part III."

3. *Examination of new Register Books.*—It shall be the duty of every Registering Officer, on receiving a new register book, to count the pages, and satisfy himself that the number of pages corresponds with that given in the certificate on the title-page. If the

* B. G. G., 1878, Pt. I, pp. 126-156.

† Nota. No. 9110, B. G. G., 1908, Pt. I, p. 1413.

number be found correct, he shall certify to that effect on the title-page. If there be a discrepancy he shall return the book for correction to the officer from whom it was received.

4. *Numbering of the consecutive volumes of Register Books.*—The volumes of each Register book shall be numbered in a consecutive series, which shall not terminate with the year but be carried on perpetually. It shall not be necessary to commence a fresh volume at the commencement of a new year; but a fresh numerical series of entries must be commenced each year as required by sec. 53. When the amount of copying is great, two or more volumes of Book Nos. I, III or IV may be used simultaneously. When two volumes are thus in use at the same time, documents bearing an even number should be copied into one, and those bearing an odd number into the other.

II.—INDEXES.

5. *Forms of Indexes Nos. I to V.*—Indexes Nos. I to IV, prescribed in Sec. 55, shall be kept in the forms of Appendices F, G, H and I, respectively.

6. *Language in which the indexes are to be prepared.*—In Registrars' Offices these indexes are to be prepared in English, in Sub-Registrars' Offices in vernacular language of the sub-district.

7. *Manner of preparing Indexes.*—In preparing the Indexes the transliteration table given in Appendix J should be followed. English names should be indexed under the first letter of the person's family name; native names under the first letter of the person's proper name, all prefixes denoting rank, occupation, or caste, being put into the column for profession, rank, &c. The name of Native Christians, who have Christian names and family names, should be indexed in the same manner as English names. In the case of a Native Christian, who has no family name, and who adds his father's name or the name of his village to his own, the name should be indexed in the same manner as an ordinary native name.

8. *Manner of Indexing documents executed by or on behalf of Government, or by an Attorney or Guardian, or by a Company or Corporation.*—All documents executed by or on behalf of Government should be indexed under "Government" in English, and "Sir-car" in the vernacular. A document executed under the authority of a power-of-Attorney should be indexed in the name of the principal, a document executed by a guardian on behalf of a minor, in the name of the minor, and a document executed by or on behalf of a company or corporation, in the name of such company or corporation.

But in every case contemplated by this rule the name and occupation of the actual executant should be shown in column 3 of Index No. I or IV, and in brackets in column 4 of Index No. II, immediately below the name in which the document is indexed.

9. *Index entries of copies, memoranda, and certificates how to be made.*—The index entries of copies, memoranda, or certificates, filed under Secs. 64, 65, 66, 67 and 89 should be in red ink, but are to be made in the same Indexes and in the same manner as entries concerning documents copied in Book No. I.

10. *What to be considered the date of registration for the purpose of the Indexes.*—In entering the date of registration in any of the Indexes, the date of the certificate of registration required by Sec. 60, shall be taken to be the date of registration; but in the case of copies or memoranda filed in the supplement to Book No. I, Part I, or of certificates under the Land Improvement Act, 1883, filed in the Supplement to Book No. I, Part III, the date of filing such copies, memoranda, or certificates, shall be considered the date of registration.

11. *Entries in Indexes where there are several executants or the property is situate in several different villages.*—In Index No. I, column 1, when there are several executants of a deed, a separate entry shall be made under the name of each in its proper alphabetical place in this form, viz., "Gopal Narain, and four others."

The same rule shall apply *mutatis mutandis* to the names of the villages in column 1 of Index No. II, when the property is situate in several villages within the district or sub-district.

12. *Method of using the loose sheets supplied for Indexes.*—The Indexes Nos. I, II,

III and IV, will be supplied to Registering Officers in loose sheets bearing all the letters of the alphabet printed on their lower margins. A Registering Officer, desiring to employ one of such sheets for the purpose of indexing under any particular letter, will remove all the letters below the required Index letter by cutting them out, and cancel all those appearing above such required letter by drawing an ink line through them. The pages of each Index should be arranged alphabetically before being bound up.

13. *Copies of entries in Indexes Nos. I, II and III when to be sent by sub-Registrars to the Registrars.*—The copies of entries in Indexes Nos. I and II, which Sub-Registrars are required by Section 58 to send to the Registrars to whom they are respectively subordinate shall be so sent by them on the 1st of every third month. And the copies of entries in Index No. III shall be so sent by them once a year in the month of January.

14. *Arrangement and binding of copies of Indexes Nos. I, II and of original Indexes.*—The copies of entries in Indexes Nos. I and II received by the Registrars under the last rule, should be filed according to sub-districts so as to prevent their getting mixed up, and at the end of the year should be bound into volumes. In binding, the volumes containing copies of entries in Index No. I should be distinct from those containing copies of entries in Index No. II: but each Sub-Registrar's copies of entries in each index for one year may be bound into one or more volumes, or the copies of entries in each index for the same period of several Sub-Registrars may be bound up into a single volume, as may be most convenient. The Registrar's and Sub-Registrar's own original Indexes Nos. I and II should be bound into volumes in a similar manner, but if it be deemed advisable, a Registrar's own original Indexes Nos. I and II may be bound up in the same volumes which contain the copies of Indexes Nos. I and II respectively for the same year received under Rule 13 from the Sub-Registrars.

15.* *Arrangement and binding of Index No. III and of copies thereof.*—The copies of entries in Index No. III, received by each Registrar should, together with the Registrar's own original Index No. III, be either bound into one yearly volume for the entire District, or into one District volume for several years as may be most convenient, the sheets being carefully arranged according to the offices to which they relate. In each Sub-Registry Office the original Index No. III for each year should be either bound into a separate volume, or if more convenient, that Index for several years may be bound together.

16. *Manner of filling in Columns 7, 8, 9 and 11, of Index No. III.*—Columns 7, 8 and 11 of Index No. III should not be filled in until it has been ascertained beyond dispute that the testator or donor, to whose will or authority to adopt the index entry relates, is dead. If the fact of such death is not ascertained till after the copy of the Index in which the entry was made has been sent by the Sub-Registrar to the Registrar, the Sub-Registrar shall immediately forward to the Registrar a statement of the particulars to be inserted in the said columns, and the Registrar shall thereupon cause the said particulars to be duly entered in the copy of the Sub-Registrar's Index filed in his office.

III.—MISCELLANEOUS RECORDS AND ACCOUNT BOOKS.

17. *Index of Book No. II.*—At the end of every year an alphabetical Index shall be prepared at the end of Book No. II of all entries in such book according to the form given in Appendix K.

18. *List of Powers-of-Agency authenticated.*—Every Registering Officer shall keep a list of the powers-of-agency authenticated by him under Section 33. It shall contain the following headings:—

(1) Consecutive number; (2) date; (3) name of the principal executing the power; (4) his profession, trade, rank, or title; (5) name of the attorney; (6) name of the persons, if any, who identified the principal; and (7) the nature of the power.

19. *Day Book.*—Every Registering Officer shall keep a Day-Book in the form of Appendix L, in which shall be entered all fees and fines paid at the time of presentation.

20.* *Minute Book.*—Every Registering Officer shall keep a Minute Book in the form of Appendix M.

(a) Where such Minute Book is kept by a Registrar, a short note shall be entered therein of every proceeding held under the Act or of such proceedings and in such manner as may from time to time be prescribed by the Inspector-General of Registration. The Registrar may delegate to his Head Clerk the duty of writing such notes, but shall sign the same himself.

(b) Where such Minute Book is kept by a Sub-Registrar, a short note shall be entered therein of every case of suspension of the ordinary procedure of acceptance for and admission to registration, or of such cases and in such manner as may from time to time be prescribed by the Inspector-General of Registration. The Sub-Registrar shall write every such note with his own hand, and shall sign and date every such note

Illustrations.

Where a document is laid aside pending the appearance of parties or witnesses, where the document is impounded for insufficiency of stamp-duty, where registration is postponed pending the receipt of sanction to the levy of a fine, where the Registrar orders registration under ss. 72-75 of the Act, and where registration is refused, a note shall be entered by the Sub-Registrar in the Minute Book.

21. *Cash Book.*—A Cash Book shall be kept in every Registration Office in the form of Appendix N, in which all fees received for registration, searches or copies, and all moneys recovered from Registering Officers in the shape of fines, percentage allowance on fees refunded to parties, &c., shall be brought to account, and the correctness of each day's total attested by the Registering Officer's signature.

22.† *Remittance of balance in hand to Treasury.*—The fees received for registration, searches, copies, &c., shall be remitted daily to the nearest Treasury, and the signature of the officer in charge of the treasury or the accountant shall be taken in the Cash-Book. In Bombay the fees shall be remitted in the same manner to the New Bank of Bombay. If a sub-Registrar's office be at a place where there is no Treasury remittances shall be made to the Treasury whenever the amount in hand exceeds Rs. 50.

23.—*Batta Book.*—A Batta Book shall also be kept in the form of Appendix O in each Registration Office, all entries therein shall be signed by the Registering Officer, on the day on which they are made.

IV.—SAFE CUSTODY OF BOOKS, &c.

24. *Register Books and other records of five years to be kept in a press.*—The office of every Registrar and Sub-Registrar shall be provided with a strong wooden press or almirah, with a good English Lock, sufficiently large to contain the Register Books and other records of five years. In this press shall be kept, when not required during office hours, all the Register Books and other records and all papers and documents in the custody of the Registering Officer, except, in the case of a Registrar, such documents as he keeps in the fire proof box supplied to him by Government.

25. *Transfer of Sub-Registrar's Records to Registrar's office.*—Every Registrar's office shall be a central office of record for the district, and save in the case of the district of Bombay, such of the Registration, Cash, Minute, Day and Batta Books of the Subordinate offices of the district as, at the commencement of each calendar year, are complete, and date back five years, shall be transferred to it. In the district of Bombay the transfer of completed books from the Sub-Registry offices to the office of the Registrar of the district shall be made as the Inspector-General shall from time to time direct. The indexes of his Sub-Registry Office shall be retained in the office to which they belong.

† Subject to the sanction of the District Registrar, a Cash, Day or Batta Book may be destroyed after the lapse of six year from the date of the final entry appearing herein.

* Notn. No. 955, 28th, Jan. 1908 (*B. G. G.*, 1908, Pt. I, p. 117),

† Notn. No. 5961, *B. G. G.*, 1886, Pt. I, p. 665.

‡ Notns. No. 8215, *B. G. G.*, 1889, Pt. I, p. 898, and No. 768, *B. G. G.* 1902, Pt. I, p. 241.

V.—DESTRUCTION OF USELESS RECORDS.

26. *Destruction of Useless Returns and other papers.*—The following papers, &c., in the Registrar and Sub-Registrar's offices shall be destroyed after the lapse of two whole years from the date on which such papers, &c., or the proceedings to which they relate, were finally disposed of, subject, in the case of a Sub-Registrar's Office, to the sanction of the Registrar of the district. A list shall be kept of the papers so destroyed in the form given in Appendix P.

(1) Fixed and extra contingent bills. (2) Bills for printing and stationery (3) Indents for dead stock (4). Arrears returns and Batta returns. (5) Summonses. (6) Ordinary correspondence excepting circulars and standing orders and other papers that may be considered useful for reference. (7) Applications for summons and warrants, under Sections 36 and 39. (8) Applications for searches and inspections under Sections 57. (9) Applications for attendance at the private residence of parties. (10) Applications for leave and reports of appointments and delivering over and receiving charge of any office. (1) Receipts granted under Section 53 or under Rule 35, and subsequently taken back under Rule 53 or 60, and counterparts of such receipts, and counterparts of notice as to documents being ready for delivery.

* Any papers, &c., other than the foregoing, in the Registry as well as the Sub-Registry Offices, may also be destroyed with the previous sanction of the District Registrar.

† The papers, &c., of which the destruction is sanctioned as above shall be destroyed in the presence of the District Registrar or of a Revenue Officer of not lower rank than a Mahalkari, or of the Divisional Inspector of Registration.

27. † *Destruction of documents under Section 85.*—The documents of which the destruction is authorised by section 85, if they remain unclaimed for a period exceeding two years, shall not be destroyed without the previous sanction of the Registrar of the District, nor until a notice has been duly issued to the parties concerned. The two years shall be reckoned, in the case of documents the registration of which has been refused, from the date of such refusals, and, in the case of documents which have been registered from the date of their registration.

§ The documents of which the destruction is sanctioned as above shall be destroyed in the presence of the District Registrar or of the Assistant or Deputy Collector, or of the divisional Inspector of Registration.

When a registered document is destroyed, a note recording its destruction shall be entered in the Register Book at the foot of the copy of the document; and when a document, the registration of which has been refused, is destroyed, a similar note shall be recorded in book No. II, in the column headed "Reasons for refusal to register," at the foot of the entry in that column relating to the document.

In every case the note shall be in red ink, and shall record the fact that the document has been destroyed, subject to the sanction of the District Registrar, and after notice duly issued to the parties concerned.

A list of destroyed documents shall be kept in every Registration Office in the form of Appendix Q||.

VI.—LANGUAGES TO BE RECOGNISED.

28. ¶ *Languages in common use.*—The following languages shall be deemed to be commonly used in the districts named :—

* Notn. No. 768, B. G. G., 1902, Pt. I, p. 214.

† Notn. No. 8678, B. G. G., 1887, Pt. I, p. 984, and No. 5160, B. G. G., 1901, Pt. I, p. 1817.

‡ Notn. No. 4457, B. G. G., 1899, Pt. I, p. 979.

§ Notn. No. 5160, B. G. G., 1901, Pt. I, p. 1817.

|| Notn. No. 768, B. G. G., 1902, Pt. I, p. 214.

¶ Notn. No. 7915, B. G. G., 1885, Pt. I, p. 1161.

In the districts of Ahmedabad, Broach, Kaira, the Panch Mahala, Surat, the Deesa Cantonment and Bhuj Cantonment,*—English and Gujarati.

In the district of Bombay,—English, Gujarati and Marathi.

In the districts of Colaba, Ratnagiri, Thana, Ahmednagar, Khandesh, Nasik, Poona, Satara and Residency and Civil Station of Kolhapur,†—English and Marathi.

In the districts of Belgaum, Kanara, Dharwar, Kaladgi and Sholapur,—English, Marathi and Kanarese.

In the district of Aden,—English.

In the districts of Hyderabad, Karachi, Shikarpur, Thar and Parkar, and the Upper Sind Frontier,—English, Sindhi, and Persian.

VII.—TERRITORIAL DIVISIONS.

29. *Territorial divisions to be recognised under Section 21.*—The following territorial divisions shall be recognised under Section 21 (namely), in the Mofussil,—the registration district, the sub-district, taluka, and the village or township wherein the immoveable property affected by the document is situated; within the ordinary original civil jurisdiction of the High Court of Judicature of Bombay, the registration sub-district in which the immoveable property affected by the document is situated.

VIII.—REGULATION OF FINES.

30. *Amount of fines to be charged under Section 24 or 34.*—Fines imposed under Section 24 or 34 of the Act shall be of the following amounts, namely:—

If the delay has been less than one month,—2½ times the proper registration-fee.

If more than one month, but less than two months,—5 times the proper registration fee.

If more than two, but less than three months,—7½ times the proper registration-fee.

If more than three months,—ten times the proper registration-fee.

IX.—MEMORANDA.

31. *Forms of memoranda under Sections 64 to 67.*—The memoranda of documents required by Sections 64, 65, 66 and 67 shall be in the forms of Appendix R.

X.—HOLIDAYS.

32. *Holidays to be observed in Registration Offices.*—The holidays to be observed in Registration Offices are the general holidays allowed by Government in all public offices in the Revenue Department.

XI.—PROCEEDINGS OF REGISTRARS AND SUB-REGISTRARS.

Office hours.

33. *Registration Office to be open daily from 11 a. m. to 5 p. m.*—All Registration offices shall be open daily, Sundays and holidays excepted, between the hours of 11 A. M. and 5 P. M.

33A. [This rule shows the times and-places at with the various Sub-Registrars mentioned therein are to hold their offices. As it is too long, it is omitted.]

33B.‡ In cases of grave emergency it shall be permissible for a registering officer to accept a deed for registration at his office or his private residence, or the private residence of some person other than himself, on any day, whether a Sunday or Government holiday or not, at any hour of the day. In all such cases the registering officer, if a Sub-Registrar, shall at once report to the Registrar to whom he is subordinate the fact of his having accepted a deed for registration as above and the reasons for his action.

Reports of Appointments.

34. *Reports of Appointments under Section 11 or 12.*—Registrars should report all appointments made by them under Sec. 11 or 12, and all changes in the officers of Registrars' and Sub-Registrars' Offices respectively, in the following forms:—

* Notn. No. 8051, B. G. G., 1902, Pt. I, p. 1936.

† Notn. No. 2400, B. G. G., 1903, Pt. I, p. 511.

‡ Notn. No. 7684, B. G. G., 1903, Pt. I, p. 1933.

"Statement of appointments made under Section 11 or 12 of Act III of 1877, between the 1st and 7th of July, 1877.

No.	The names and designations of persons appointed.	To what duties, and whether officiating or substantive.	At what place, and circumstances under which the vacancy necessitating the appointment has occurred.

No. of 18 .

Forwarded to the Inspector-General of Registration for information.

Registry Office, }
18 . }

Registrar.**

"The following Officers have respectively delivered over and received charge of the Registry and Sub-Registry offices hereinafter named on the dates specified against their respective names :—

District.	Office.	Name of Officers delivering over charge.	Name of Officers receiving charge.	Date of the same.	Time.

No. of 18 .

Forwarded to the Inspector-General of Registration for information.

Registry Office, }
18 . }

Registrar."

Receipts.

35. Receipts to be furnished for every payment and every document received by a Registering Officer.—A Registering Officer visiting a private residence or aill under Section 31, 33, or 38, and receiving his travelling expenses from the person at whose application such visit is made shall give to the applicant a receipt for the sum received, and, if a Sub-Registrar, shall immediately report the amount to the Registrar. Such receipts shall be in the form of Appendix S, and a receipt in the same form shall also be given whenever payment of any fee or fine is made to a Registering Officer unaccompanied by the presentation of any document for registration or deposit.

The receipt to be given under Section 52 for a document presented for registration shall be in the form of Appendix T, and a receipt in the same form shall also be given for any document presented for deposit.

Authentication of Powers-of-Attorney.

36.* Form of authentication or attestation of Powers-of-Attorney.—In authenticating or attesting Powers-of-Attorney under Section 33 Registering Officers should adopt the following form (namely) :—

Authentication.—[Clause (a), Section 33].—Executed by *A. B.* of *C. D.* in my presence on 30th July, 1877, his identity being proved by *E. F.* of *G. H.*

Attestation (in case of persons exempted from personal attendance at registration office as per the terms of Section 33).—Voluntarily executed by *A. B.* of *C. D.* whereof I

* Note. No. 4430, E. G. G. 1885, Pt. I, p. 697a

have satisfied myself by personal examination of *A. B.* (or by the examination of the said *A. B.* by Commission).

These endorsements shall be signed and sealed by the Registering Officer authenticating or attesting the Power-of-Attorney.

Registration.

37. Presentation endorsement to be written by Registering Officer in his own hand.—The endorsement to be made, as prescribed in Section 52, on every document presented for registration shall be written by the Registering Officer with his own hand, on the face of the document in the following form :—

“Presented at the Office of the Registrar, or Sub-Registrar, of _____ between the hours of 2 and 3 p. m. on the 20th July, 1877.”

If a document is impounded under the Stamp Act, the words “impounded under Section 33 of the Stamp Act” shall be written immediately below the presentation endorsement and signed by the Registering Officer.*

† In a Registrar's office the Registrar may delegate the duty of recording the endorsements under this Rule to his head clerk, or, in the Bombay Registry Office, to the assistant head clerks, for him, the Registrar, to sign.

‡ And in the Sub-Registry Office of Aden the Sub-Registrar may, with the previous sanction of the Inspector-General and the Registrar of the district, delegate the duty of recording the endorsements under this Rule to the head clerk of the Registrar, for him, the Sub-Registrar, to sign.

§ If the executant of, or a person who proposes to present, a deed is in doubt about the proper stamp which such deed should bear, and consults a Registering Officer on the subject before formal presentation, the required information may be given to the former without impounding the deed.

38. Fees to be taken and credited at once in Day-Book.—The proper fees shall then be taken and the first four columns in the Day-Book (Appendix L) must be filled in at once.

The daily number under which the document is entered in the Day-Book (Appendix L) and the Minute Book (Appendix M) should be endorsed on the document.

39. Method of counting folios for fixing copying fees—In calculating copying fees a fraction of a folio shall be counted as a whole folio. When a document is so short that the copy of it will probably occupy less than one page of the Register Book the whole number of words should be counted. In other cases the number of folios may be counted by multiplying the average number of words in five different lines in different parts of the document by the number of lines in the document (a fraction of a word being counted as a word), and dividing the result by a hundred.

40. Note of receipt of fees to be endorsed on the document.—On receipt of the fees the Registering Officer shall write on the face of the document a note in the following form :—

“Received fees as follows :—

Registration fee	...	...	...	...	...	Rs.
Copying fee (folios)	...	...	...	...	...	”
(When paid) extra fee for registration by Registrar	...	...	...	...	...	”
(When paid) extra registration fee for registration at private residence	...	...	...	...	...	”
(When paid) fee for copies or memo. under Sections 64, 65, 66 and 67	...	...	...	...	...	”
(When paid) fine under Section 24	...	...	...	...	...	”
(When paid) fine under Section 34	...	...	...	...	...	”

Total Rs. _____

A. B.
Registrar or Sub-Registrar.”

* Notn. No. 7663, *B. G. G.*, 1900, Pt. I, pp. 2462-3.

† Notns. No. 8921, *B. G. G.*, 1887, Pt. I, p. 509, and No. 768, *B. G. G.*, 1902, Pt. I, 214.

‡ Notn. No. 881, *B. G. G.*, 1888, Pt. I, p. 39.

§ Notn. No. 873, *B. G. G.*, 1888, Pt. I, p. 116. Similar provision has been made in the N. W. P. and Oudh Registration Rule, No. 77, and the Punjab Registration Rule, No. 414.

* In a Registrar's Office the Registrar may delegate the duty of recording the endorsements under this Rule to his head clerk, or in the Bombay Registry Office, to the assistant head clerks, for him, the Registrar, to sign ;

† And in the Sub-Registry Office of Aden the Sub-Registrar may, with the previous sanction of the Inspector-General and the Registrar of the district, delegate the duty of recording the endorsements under this rule to the Head Clerk of the Registrar for him, the Sub-Registrar, to sign.

41. *Points to be considered before accepting a document for registration.*—In considering whether a document presented for registration should be accepted for registration, the Registering Officer should not concern himself with questions as to its validity, ‡ but should be careful only to see that it fulfills the following requirements of the law relating to documents presented for registration (namely):—(1) that the document be properly stamped ; (2) that it be presented within the proper time, and in a proper office § ; (3) that it be presented by a competent person ; (4) if it relates to immoveable property, that it is not open to objection under Sect on 21 ; and (5) that the provisions of Section 19 are complied with, with respect to it, if that section be applicable to it.

42 *Form of endorsements and Certificate under Sections 58 to 60, if document is admitted to registration.*—If there be no objection, on the face of the document, to its being accepted for registration, the inquiry prescribed in Section 34 shall be proceeded with ; and if the document is admitted to registration, the endorsements and certificates prescribed by Sections 58 to 60 shall be made from time to time in the manner shewn.

Admission of receipt of consideration shall only be endorsed when such admission is voluntarily made. (a)

If an executing party admits execution, but takes occasion to deny the receipt of consideration in whole or in part, registration is not on that account to be refused (b) but the denial of receipt of consideration shall be mentioned in the endorsement.

When the Registering Officer is acquainted either with the persons admitting execution or with the witness to their identity he shall mention the fact in the endorsement.

42 A. † *Procedure of Sub-Registrar when application is lodged with him under Section 24 or Provision in Section 34.*—When an application for a direction under Section 24 or under the Provision in Section 34 is lodged with a Sub-Registrar, the Sub-Registrar may, on payment being made to him of the full amount of the fine that may be imposed by the Registrar if he grants the direction, at once proceed with the inquiry prescribed in clauses (a), (b) and (c) of Section 34, in anticipation of the order that may be passed by the Registrar upon the application : (c)

Provided that—

(1) Nothing in this rule shall be deemed to affect the power of the Registrar to refuse such application :

(2) If such application is refused, or if the amount of fine imposed by the Registrar when granting the direction applied for is less than the full amount impossible by him, the amount of fine paid to the Sub Registrar or the excess, as the case may be, shall be refunded to the party who paid it.

(d) Provided that when a document is presented for registration which is not duly stamped and the Registering Officer impounds it at once under Section 33 of the Indian Stamp Act II of 1899, the Registering Officer shall, before forwarding it to the Collector, record on it the presentation endorsements prescribed by Rule 37, and if the executant or

* Notn. No. 3921, *B. G. G.*, 1887, Pt. I, p. 509, and No. 763, *B. G. G.*, 1902, Pt. I, p. 314.

† Notn. No. 331, *B. G. G.*, 1883, Pt. I, p. 39.

‡ Registering Officers have nothing to do with the recitals or the validity of a deed.

§ Notn. No. 195, *B. G. G.*, 1900, Pt. I, p. 59.

(a) See *Bhoobun Chunder v. Sreemuttee Nagoree* (15 W. R. 15).

(b) Notn. No. 6157, *B. G. G.*, 1883, Pt. I, p. 599.

(c) See *Gangawa kom Channasappa v. Sayawa* (21 Bom. 699 ; P. J., 1896, p. 115).

(d) Notn. No. 7668, *B. G. G.*, 1900, Pt. I, pp. 2462-68.

executants are present, the endorsements of admission of execution in the manner shown above in form U—no fees, however, being then taken. The fees shall not be levied and the document shall not be copied or certified as registered under Rule 42 until it has been returned to the Registering Officer with the Collector's certificate that the proper stamp duty has been paid thereon.

43. Provision where blank space on document is insufficient for the necessary endorsements and certificate.—On every document admitted to registration, a blank space is required for the endorsements and certificate prescribed by Sections 58 to 60. A space, 6 inches in length and 5 inches in breadth, will ordinarily be sufficient, but when the executing parties are numerous, the space should be proportionately larger. If, in any case, the blank space on the document is insufficient, an extra piece of blank parchment or paper should be firmly gummed on to it, and the Registering Officer, when making the endorsements or certificate should take particular care that they are not written wholly on the piece attached, but partly on the document itself and partly on the attached piece across the junction of the two.

44. Value of stamp and stamp-vendor's endorsement to be copied into the Register Books.—When a document admitted to registration is being copied, as required by Section 52, in the appropriate Register Book, the value of the stamp and the stamp-vendor's endorsement shall invariably be transcribed at the beginning of the copy in such book and also on the memoranda or copies prepared under Section 64 to 67; but these shall not be taken into account when calculating the copying fees.

45. Compulsory Registration how to be distinguished from optional in the Registers.—In Book No. 1, compulsory registrations shall be distinguished by the letter "A" appended to the serial number, and optional registrations by the letter "B" and copies-memoranda, or certificates under Sections 64, 65, 66, 67 and 69, filled in supplements to Book No. 1, Parts I and III, shall be distinguished by the serial numbers 1a, 2a, 3a, &c.,

Determination of value of interest affected by a document for purpose of classing such document under this rule.—For the purpose of determining whether the registration of a document in which the value of the interest affected is not specified is compulsory or not, the value of the stamp affixed thereto shall be taken to indicate the value of the interest according to the provisions of the law in force relating to stamped documents.

46. Transcripts of translations to be written in red ink.—The transcript of a translation under Section 62 shall be made in red ink.

47. What endorsements and certificates are to be copied into Register Books Nos. I, III and IV.—The following items are to be copied in the column of Books Nos. I, III and IV, (as the case may be) headed "Endorsements and Certificate," namely:—(1st) The daily number endorsed on the document under Rule 38; (2nd) The presentation endorsement referred to in Rule 37; (3rd) The fee-endorsement required by Rule 40; (4th) The endorsements and certificate required by Sections 58 to 60 in the order in which they occur on the document.

48. Procedure in case of re-registration.—In case of re-registration the document shall be copied into the Register *in extenso*, and a number shall be assigned to it, precisely as if it had not been previously registered, but a note in red ink to the effect "re-registered at page , volume of Book No. , " shall be made in the Register to the first copy of the document in the column headed "Endorsements and Certificate" below the Registering Officer's signature, and such note shall be signed by the officer who re-registers the document. The presentation-endorsement (Rule 37) shall be repeated on re-presentation.

49. Method of noting errors, erasures, &c., in original documents in the copies thereof in Register Books.—Errors, erasures, interlineations, &c., in original documents must be copied into the Register Book exactly as they appear in the documents. Marginal notes shall be written in column 1, explanatory of such errors, &c., in the following manner; in the case of interlineations, additions, or mis-spellings, by a single mark "X," in red ink over them, with a similar mark "X" in red ink in column 1, and the word "sic," or the corresponding word in the vernacular in the same column; in the case of an erasure, by two marks "XX" in red ink, one at each end of such erasure, with similar marks in column 1, and the word "erasure," or corresponding word in the vernacular. All such notes must be attested by the initials of the Registering Officer.

50.* Attestation of copy of document in Register Book.—When the copy in the Register Book has been completed, it shall be carefully compared with the original and the Registering Officer shall certify, under his signature, that it is a true copy. If the comparison of the copy with the original is made by any person other than the Registering Officer, such person shall endorse below the copy the words "Compared by me" and attach his signature to the endorsement.

Method of attesting corrections in copy of a document in the Register Books.—No erasure or alteration shall be made in the Registers any error made at the time of copying shall be bracketed in red ink, and the correction written above in red ink, and such correction shall be attested on each side by the initials of the Registering Officer. Every interlineation or addition shall be similarly noted and attested.

When any such corrections are made, the form of certificate shall be as follows :—
 "(True copy.)

The words , line , page , having been superfluously written at the time of copying, have been placed in brackets"; or "the words , line , page , having been written by mistake at the time of copying, have been placed in brackets, and the words have been written above in red ink"; or "the words having been omitted by mistake from line page at the time of copying, have been written above in red ink.

(Signed) A. B.
 Registrar or Sub-Registrar."

51. Arrangement of entries in Register Books.—If the copy of a document occupies more than one page of the Register Book, the marginal entries shall be made once only, with the exception of the serial number, which shall be repeated on every page. The marginal entries shall in no case be made alongside of the copy of any document other than that to which they relate. Where owing to the document being short, the marginal entries in the Register Book extend lower down in the columns appropriated to them than the copy of the document in the column appropriated to it, the blank space left in the last-named column shall be cancelled by cross lines in ink being drawn over it.

52. Treatment of maps or plans put in under Section 21.—On every map or plan put in under Section 21, the Registering Officer shall endorse "map or plan which accompanied the document, registered No. , page , volume of Book No. I," and every Registering Officer entering such map or plan, or copy of map or plan, in his Supplement to Book No. I, Part II, shall make a note in his Book No. I, below the copy of the document to which the map or plan or copy belongs, as follows :—

"Map or plan, or copy of map or plan accompanying, is entered at page of volume of Supplement to Book No. I, part II."

53 On return of document after registration, receipt given under Section 52 to be taken back.—When after the registration is completed within the meaning of Section 61, the document is returned, the signature of the recipient shall be taken in the Day Book (Appendix L), and the receipt given under Section 52 shall be taken back and filed.

† Provided that where the presenter has signified a wish that the document should be returned to him by post, the receipt should be taken back and filed, and the document forwarded in a registered cover with a form of acknowledgment. The registration receipt granted by the Post Office and the acknowledgment of the presenter, when returned, should be separately filed, and a note of their numbers entered in column 9 of the Day Book.

54. Registered and unregistered documents to be kept separate, and a list to be kept showing each—Documents of which the registration is not complete, and registered documents pending delivery, shall be kept separate.

A list of documents, the registration of which is not completed, and of those which have been registered, and have remained unclaimed for more than one month from the date of completion of registration shall be hung up to public view in the office of every Registering Officer.

‡ Notices regarding fees under Article 17 of the Fee Table to be issued in certain cases. —If a document remains unclaimed for one calendar month after its registration, or after

* Notn. No. 10043, B. G. G., 1884, Pt. I, p. 1220.

† Notn. No. 3509, B. G. G., 1909, Pt. I, p. 583.

‡ Notn. No. 3684, B. G. G., 1885, Pt. I, p. 355.

registration of the same has been refused, the Registering Officer shall, on the day following the last day of such month, issue a notice to the presenter of the document, informing him that if it be not claimed within a further period of one calendar month from the date of such notice, an extra fee at the rates prescribed in Article 17 of the Fee Table will be leviable before such document can be delivered to him. Such notice shall be sent by post, post paid.

55. Correction of mistake in registering a document in the wrong Sub-District.—When a Sub-Registrar registers a document relating to immovable property not situate within his own Sub-District, but in that of another Sub-Registrar, and the mistake is brought to notice, he shall direct the presenter to present it again in the proper office where it shall be registered afresh without additional charge.

56. Copy of every order or appeal directing a document to be registered to be sent to the Sub-Registrar concerned.—A copy of every order passed by a Registrar in appeal shall, if registration be thereby ordered, be sent to the Sub-Registrar from whose decision the appeal was made, and shall be copied by the latter in the last column of his Book No. II.

Commissions and the taking of Evidence, &c.

57. Form of commissions and manner of recording them.—Commissions issued under Section 33 or 38 and the returns thereto shall be recorded in a separate file. Such commissions should be in the following form :—

"To,

A. B.

Whereas the accompanying Power-of-Attorney (or document), dated _____ and purporting to have been executed by C. D. has been presented for authentication (or registration) in this office, and whereas it is necessary that it should be ascertained whether it has been voluntarily executed by the person by whom it purports to have been executed, you are hereby directed to take the examination of _____ upon the interrogatories hereunto attached, and to return this commission with the examination of the said _____

to this office on or before the _____ day of _____ 18 ____ .
Given under my hand and seal this _____ day of _____ 18 ____ .

[Seal.]

(Signature of Registrar or Sub-Registrar).

58. Class of witnesses to be preferred.—In taking evidence regarding the identity of parties appearing before him, the Registering Officer should prefer witnesses of respectability or well known persons, such as Government Officers, Vakeels ordinarily practising at the station, or persons with whom he is personally acquainted.

59. Fees for process under Section 36 or 75.—Fees are to be levied for summons and warrants issued under either Section 36 or 75 at the rates prescribed in the fee-table prepared by Government, and to be credited in the Batta Book (Appendix O).

Issue of process under Section 75.—For the purposes of para. 4 of Section 75, Registrars will themselves issue process for the attendance of witnesses. In the district of Bombay the Registrar will himself arrange for the service or execution of such processes, elsewhere they should be sent to a Mamlatdar, Mukhtyarkar, or Mahalkari for the purpose of being served or executed.

59A.* Registration of instruments prepared under Section 63A of the Dekkhan Agriculturists' Acts, 1879 to 1886.—In respect of the registration of any instrument which has been executed by an agriculturist under Section 63A of the Dekkhan Agriculturists' Relief Acts, 1879 to 1886, Nos. 17, 23, 30, 41, 42, 42A, 46, 48, 56, 57, 59, 60, 64 and 65 of these rules shall be deemed inapplicable, and the following special provisions shall apply, namely :—

(1) An endorsement in the following form shall be substituted for that prescribed by Rule 37, viz. :—

"prepared at the office of the Sub-Registrar of _____, (or, at the house of _____ as the case may be) between the hours of 2 and 3 P.M., on the 30th July, 1877."

(2) Rule 47 shall be read as if for the 2nd and 4th items therein specified the following were respectively substituted, viz. :—

"(and) the preparation-endorsement referred to in Rule 37, as modified by Rule 59A, clause (1) :

(4th) the endorsements made under Nos. 15, 15B and 16 of the Rules made under Section 61 of the Dekkhan Agriculturists' Relief Acts, 1879 to 1886, and the certificate required by Section 69 of the Indian Registration Act, 1877, in the order in which they occur on the instrument."

- (3) Rule 66 shall be read as if for the first sentence the end down to and inclusive of the word 'same' the following were substituted, viz :—
 "If for any reason an instrument is not completely executed and registered after the fee for the same has been paid, one-half of such fee shall be refunded to the person who paid the same."

Deposit of Sealed Covers.

60. *Receipt given under Rule 35 for a sealed cover to be taken back when the cover is withdrawn.*—When application is made for withdrawal of a sealed cover under Section 44, the Registrar shall take back the receipt given under Rule 35 when the cover was deposited, and file it.

Grant of Copies, &c.

61. *Application for copies, &c., to be in writing.*—Every application to a Registering Officer for copies, searches, inspection, &c., shall be made in writing: every such application shall be numbered and filed by the Registering Officer, and upon it shall be endorsed the date of receipt, the date on which the requisition was satisfied, and the amount of fee received.

Registering Officers must be careful to see that the provisions of stamp-law for the time being in force are complied with in respect of applications made under this rule, and also as regards copies of documents which they may furnish to applicants.*

62. *A Sub-Registrar in charge of a Registrar's Office, to receive percentage allowance on receipts from fees for copies, &c.*—When the Sub-Registrar at the Huzur Station is appointed by the Registrar under Section 11 to perform his duties during his absence from his office on duty in his district, or when, although not so appointed, such Sub-Registrar is during the Registrar's absence placed in charge of the District Record-room the fees received for copies from the records of which he is so placed in charge shall be credited in the Sub-Registrar's accounts, and he shall be allowed his usual percentage commission on such fees.

Postal Charges.

63. *Postal charges not to be levied for transmission of memoranda, &c.*—No postal charges shall be levied for the transmission of memoranda or copies of documents under Sections 64, 65, 66, and 67. The fees charged cover all expenses, and the postage shall be paid by the office levying such fees.

Copies of documents prepared under Section 67.

64. *In certain cases translation of document to accompany copy under Section 67.*—When under clause (b) of Section 30, the Registrar of Bombay registers a document relating to property situated beyond the limits of the Bombay Presidency, the copy of such document, which under Section 67 it is his duty to forward to every Registrar within whose district any part of the property to which such document relates is situated, shall, when the document is in a language other than English, be accompanied by an English translation, written in red ink, and certified under the signature of the said Registrar of Bombay to be a true translation.

Copies of Reasons for Refusal of Registration.

65. *Copy of reasons under Sections 71 and 76 of what to consist.*—The copy of reasons furnished under Sections 71 and 76 shall be a copy of the entries in the first four columns of Book No. II relating to the documents of which registration has been refused.

Refund of Fees.

66.† *When document is withdrawn from registration, or when registration is refused, fees are to be refunded.*—Fees on documents presented for registration but withdrawn before the order for the registration thereof has been passed, and fees on documents of which the registration is finally refused, shall be refunded to the parties entitled to the

* See the Indian Stamp Act II of 1899, Schedule I, Art. 24.

† Note No. 2811, B. G. G., 1891, Pt. I, p. 356.

same. A Register of such refunds, and of refunds of fees surcharged and of fines which have been remitted, shall be kept by each Registering Officer in the form of Appendix V.

Returns and Accounts.

67.* *Monthly returns to be sent to Registrars and to the Inspector-General.*—Every Registrar shall submit to the Inspector-General, on or before the 15th of every month, monthly returns in the forms of Appendices W-(I), W-(II), W-(III) and W-(IV). These shall be prepared from similar return, which shall be submitted to the Registrar by the Sub-Registrars on the 2nd of every month.

68. *Date on which account should be closed.*—Sub-Registrars in the Mofussil, other than those at Sadar Stations, should close their accounts on the date of each month on which the accounts of the Treasuries, into which their receipts may be paid, are closed; those at Sadar Stations and in Bombay should close them on the last day of the month.

69† *Sub-Registrars, &c., to prepare monthly bills.*—Every *ex-officio* Sub-Registrar and the Sub-Registrar of Aden shall prepare a bill immediately after paying in their fee-collections for the last day of each month, *i.e.*, the day on which his accounts are closed, and after obtaining the signature of the Treasury Officer thereto shall forward it with his returns W-(I) to W-(IV) on the 2nd of the month following to the Registrar to whom they are subordinate.

70 (Rule 70 is cancelled by Notn. No. 763, B. G. G., 1902, Pt. I. p. 214.)

71‡ *Returns W-(I) to W-(IV) how to be prepared*—The Returns W-(I) to W-(IV) shall comprise the period from the day after that on which the accounts are closed in one month to that on which they are closed in the month following, both days inclusive. Any fee recovered for any period not included in that to which the return relates, shall be shown in a foot-note with a short explanation.

The fees for copies or memoranda under Sections 64, 65, 66 and 67 shall be entered in form W-(II) in red ink separately from the fees for registration, but immediately below them.

72. *Treatment of fees received after closing of Treasury.*—Fees received after the hour at which the Treasury, into which payments have to be made, may be closed, shall be kept by the Registering Officers, till next day, and then paid into the Treasuries along with the receipts for that day.

In Bombay and the Sadar Stations, where the Treasury accounts are closed on the last day of the month, any fees received on that day by Registering Officers, subsequent to the closing of the Treasury, shall be shown in their accounts for the following month.

73.§ Every Registrar shall fill up such forms of annual returns as may be called for by the Inspector-General. In every third year, every Registrar shall, on or before the 1st March, submit to the Inspector-General a brief report containing a general account of the amount of registration work performed by himself and his Sub-Registrars during the three calendar years preceding.

In this report he shall show (a) Compulsory registrations as distinguished from voluntary; (b) The nature of the deeds registered; (c) The number and result of appeals under s. 72; (d) The number and result of applications under s. 73; (e) The number and result of applications under s. 77; (f) The amount of fees collected in his own office and those of the Sub-Registrars; and shall explain the significance of the statistics as bearing upon the economic conditions of the people.

In the two years intermediate between the dates of these triennial reports, the Registrar shall, on or before the 1st March, submit the prescribed statements with a clear but brief indication of the Registrar's opinion as to the significance of the statistics

* Notn. No. 7659, B. G. G., 1908, Pt. I, p. 140.

† Notn. No. 4066, B. G. G., 1890, Pt. I, p. 527, and No. 7659, B. G. G., 1908, Pt. I, p. 1140.

‡ Notn. No. 7659, B. G. G., 1908, Pt. I, p. 1140.

§ Notn. No. 166, B. G. G., 1909, Pt. I, p. 54.

73A.* When a District Registrar is of opinion that inconvenience attends the working of any of these rules or the authorised table of fees, he should submit his suggestion for the improvement of the system of registration in separate reports and should not incorporate them in the Annual or Triennial Administration Report.

XII.—REMUNERATION, &C., OF SUB-REGISTRARS.

74. *Sub-Registrars to provide their own writing materials.*—All sub-Registrars, except the Sub-Registrars of the Presidency District, Karachi and Aden, shall provide, out of the percentage of fees paid to them as remuneration, whatever writing materials they require for the work of their respective offices, excepting such blank forms and books as are supplied by Government.

75.† *Mofussil Sub-Registrars to pay their own karkuns, subject to the orders of the Registrar.*—The karkuns employed in mofussil Sub-Registry Offices shall also be paid by the Sub-Registrars out of the said percentage of fees. The number of karkuns to be employed in a Sub-Registry Office, and the amount of monthly remuneration to be paid by the Sub-Registrar to each of them, shall be determined by the Registrar of the district. In no case shall the salary of any karkun be less than Rs. 8 per month, if he be employed by a special Sub-Registrar, nor less than Rs. 6 per month, if he be employed by an *ex-officio* Sub-Registrar, whether the percentage receipts of the Sub-Registrar be above or below the abovenamed sum. On the 1st of January and of the 1st of July in each year, every Sub-Registrar shall furnish to the Registrar to whom he is subordinate a return showing the amount of salary paid by him to his establishment during the preceding six months. No Sub-Registrar shall employ, fine, or dismiss any karkun save with the sanction of the Registrar of his district.

76. *Ex-officio Sub-Registrars—*

(1) *Ex-officio Sub-Registrars may not write up their records during office hours.*—shall not write up during the regular office hours of the Kachari in which they are employed any of the Registrar Books or Indexes, nor any of the Returns, nor any Book, except the Minute Book, the Day Book, the Cash-Book, and the Batta Book;

(2) *Nor employ the parties, &c., to a document to do any such writing, nor get such writing done without remuneration by any one attending Kachari.*—shall not employ any of the parties to a document, nor any agent, relative, or friend of any such party or other person interested in the document to write any of the Registration-Books, Indexes, Returns or endorsements relating to such document, nor get any such writing done without remuneration by any person attending the Kachari on any public business.

(3) *Nor employ any public servant to do any such writing during office hours.*—shall not employ any Government servant to write any of the Registration-Books, Indexes, Returns or endorsements, during the ordinary hours of duty of servant; and

(4) *And shall be responsible for quality of writing and condition of records.*—shall be responsible for all writing for registration purposes being done legibly and distinctly and for the Books, Indexes, and Returns being kept in a neat and orderly manner under penalty of refunding the percentage of fees paid for any writing not to the satisfaction of the Registrar.

77. *Registrar may withhold Sub-Registrar's percentage allowance.*—Registrars may, at their discretion, withhold percentage allowance from any Sub-Registrar who may be found to be negligent in the performance of his duties.

XIII.—INSPECTION.

78.‡ *Inspection by Registrars of Sub-Registrars' Offices.*—Every Registrar shall, if possible, examine the books, Indexes, Accounts and other records of the Sub-Registrars subordinate to him once in every official year. He shall make a memorandum of all errors, acts of negligence, doubtful practices which he may observe, and shall send one copy of the same to the Sub-Registrar and another to the Inspector-General, with any remarks or suggestions that he may have to offer. He shall particularly direct his attention towards ascertaining whether the same person or persons have been in the habit of attending at the Sub-Registry Office an extraordinary number of times to give evidence

* Notn. No. 166, B. G. G., 1903, Pt. I, p. 54. † Notn. No. 73, B. G. G., 1902, Pt. I, p. 214.
‡ Paras 2 and 3 of this rule are cancelled by Notn. No. 392, B. G. G., 1887, Pt. I, p. 509.

as to the identify of executants. He shall also under Section 52, authenticate the books that he may examine by making a record in each book to the following effect :—

"Entries from p. to p. in this book.

Examined by me.

(Signed)

Registrar."

The of 18

79. Inspection by Inspector of Sub-Registrars, Offices.—Every Inspector of Registration Offices shall carefully inspect the Books, Accounts, &c. of each Sub-Registry Office in the districts forming his charge, if possible, once in every official year, and shall, on each such occasion, make a memorandum of all errors, acts of negligence, omissions or doubtful practices which he may observe. He shall forward one copy of such memorandum to the Inspector-General of Registration for information and another copy of the same to the Registrar of the district. The latter will thereupon issue such order to the Sub-Registrar as he may deem requisite, but no Inspector shall issue any order direct to any Sub-Registrar. Such book of the Sub-Registry Office as may be examined by an Inspector shall be authenticated by him under Section 52 of the Registration Act in the manner above prescribed for Registrars.

80. Inspectors to submit a diary every month and an Annual Report to the Inspector-General.—On or before the 10th of every month each Inspector shall submit to the Inspector-General a diary containing full information as to his movements during the preceding month. He shall also submit an annual Report, in which are to be noted all deeds of a peculiar or extraordinary character which have come under his observation during his examination of the Register Books. Special mention is also to be made of the state of the Indexes in the several offices, whether they afford all necessary facilities for reference, and whether any steps are recommended for their improvement.

XIV.—BRANCH INSPECTOR-GENERAL OF SIND.

81. In Sind reports, &c., to be made to the Branch Inspector-General.—In Sind all reports and returns which, by any of the foregoing rules, are ordered to be made to the Inspector-General, shall be made to the Branch Inspector-General.

XV.—EXAMINATIONS.

82 * Annual Departmental Registration Examination.—A Departmental Examination in questions relating to the Registration Act and Rules and the General Stamp Act shall be held yearly in September in each district. All clerks and karkuns of the Registration Department in the direct employ of Government shall be required to pass such examination before being confirmed in the appointments. In ordinary cases to person shall be appointed clerk to a Registrar who has not already passed in examination. In special cases a person who has not passed the above examination may be appointed a Registrar's clerk, subject to the proviso that if on the expiration of three months from date of appointment as above, such person does not pass the Departmental Examination, he shall, from the expiration of those three months until he so passes, draw only four-fifths of the pay of the Registration clerkship, and be ineligible for promotion to any other post in Registration Department. In such special cases it shall be the duty of the Inspector-General, if the annual Departmental Examination is more than three months off at the time of the man's appointment to the Registry clerkship, to prepare an examination paper containing questions relating to Registration Act and Rules and the General Stamp Act, and to despatch this paper to the Registrar under whom the clerk is serving on the expiration of three months from the latter's appointment, in order that the clerk may undergo an examination in the contents of that paper. The clerk's answers shall subsequently be returned to the Inspector-General in order that the latter may determine whether the former has passed the examination. Passing in such a case shall be held to be equivalent to passing the annual Departmental Examination in September. All other clerks and all karkuns of the Registration Department in the direct employment of Government may be appointed to such posts in anticipation of their passing the Departmental Examination but shall not be confirmed in their appointments or be eligible for promotion in the Registration Department until they have passed such examination. The karkuns of any Sub-Registrar other than the Sub-Registrars of Bombay and of Karachi not being in the direct employ of Government, are exempt from

the necessity of passing this examination, but any such karkuns as are, under the terms of Government Resolutions, Revenue Department, No. 2257 of 12th May, 1871, and No. 2724 of 13th May, 1873, eligible for Government service may, if they so desire, appear at the examination.

(b) The questions for the yearly Departmental Examination will be prepared by the Inspector-General and forwarded by him to the President of the Examination Committee in each district, and the value of each candidate's answers will be assessed by such Committee, the result being communicated to the Inspector-General. The names of the candidates who pass the examination will be published in the *Bombay Government Gazette*.

(c) In ordinary cases if a candidate who has passed the Departmental Examination does not obtain an appointment in the Registration Department within one year from the date of so passing, he shall not be deemed qualified for a permanent appointment therein until he has again passed the examination, but he may be appointed a probationer. It shall, however, be within the discretion of the Inspector-General in special cases to allow of a departure from the rule requiring a candidate to undergo a second examination, if the former is satisfied that the candidate's knowledge of registration work is sufficient to entitle him to the above indulgence.

83.* Confirmation of probationary Special Sub-Registrars.—The appointment of every special Sub-Registrar will for the first twelve months be probationary only. As soon as possible after that time has elapsed or in special cases within that time, if after careful examination of his offence he be reported duly qualified by the District Registrar, the Inspector-General will inform Government whether in his opinion the Sub-Registrar should be confirmed in his appointment, but subject to the proviso contained in para. (c) of Rule 82, empowering the Inspector-General to relieve any candidate for employment in the Registration Department who has once passed the Departmental examination from the necessity of, on the latter obtaining such employment, again appearing for such an examination—no such appointment will be confirmed unless the probationer has passed the annual examination prescribed by Rule 82 either within a year before he was appointed a Sub-Registrar or while he has filled the office on probation.

Appendix A.—(See Rule 1).—Form of Book No. I.
Register of Non-testamentary Documents relating to immovable property.
(To contain the following columns).†

1. Serial Number of Document. 2. Endorsement and Certificate (Section 52, 58, 59 and 60). 3. Copy of Document.

Appendix B.—(See Rule 1). Form of Book No. II.
Record of Reasons for Refusal to Register.
(To contain the following columns).

1. Serial Number of refusal and nature of document. 2. Name of Presenting Party. 3. Name of Office in which Registration has been refused, and date of Refusal. 4. Reasons for refusal to register. 5. Copy of Order of Appellate Authority or Civil Court directing Registration (Section 72 or 75 and 77).

Note.—1. Book No. II is to be kept in this form both by Registrars and Sub-Registrars.

2. In Sub-Registrars' Offices only the date of refusal need be entered in column.

3. In Registrars' Offices when an appeal is brought under Section 72, or when an application is made under Section 73, the name of the office in which registration of the document has been refused and the date of such refusal should be entered in column 3, and in column 4 the Sub-Registrar's reasons for refusal should be copied *verbatim*. If the order of the Appellate Authority directs the Registration of the document, it is to be copied in full in column 5 both in the Registrar's book No. II and Sub-Registrar concerned.

Appendix C.—(See Rule 1).—Form of Book No. III.
Register of Wills and Authorities to adopt.
(To contain the following columns).

1. Number. 2. Reference to Book No. V. 3. Endorsement and Certificate (Sections 52, 58 to 60, and 45). 4. Copy of Will or Authority to adopt.

* Notn. No. 10086, B. G. G., 1894, Pt. I. pp. 1229-80.

† The headings simply have been given.

Notes.—1. Only the Registers issued to Registrars should contain the 3rd column.
2. In Registrars' offices when a Will is in the first instance deposited as a sealed cover, the 2nd column will be filled in, and the 3rd column left blank. In any other case column 3 will be filled in, and column 2 left blank.

Appendix D.—(See Rule 1).—Form of Book No. IV.
Miscellaneous Register.

(To contain the following columns).

1. Serial Number of document. 2. Endorsement and certificate (Sections 52, 58 to 60). 3. Copy of document.

Appendix E.—(See Rule 1).—Form of Book No. V.
Register of Deposits of Wills.

(To contain the following columns).

1. Number. 2. Year, month, day and hour of presentation. 3. Name and addition of Depositor. 4. Nature of Document. 5. Names and additions of Persons examined as to identity. 6. Subscription. 7. Inscription or seal. 8. Date of Application for Registration (Section 45). 9. Name and addition of Person making Application. 10. Reference to Book No. III. 11. Date of Return to Depositor (Section 44). 12. Receipt of Depositor on withdrawal.

Appendix F.*—(See Rule 5).—Form of Index No. I.

PART I.

(To contain the following columns).

1. Name of executing party or, in case of a decree or order of the Civil Court, of defendant. 2. Place of residence and profession, trade, rank and title. Whether agriculturist or not. 3. Name of village or town in which property is situated. 4. Serial No. of document and No. of Volume of Register Book.

PART II.

(To contain the following columns).

1. Name of claiming party or, in case of a decree or order of the Civil Court, of plaintiff. 2. Place of residence and profession, trade, rank and title. Whether agriculturist or not. 3. Name of village or town in which property is situated. 4. Serial No. of document and No. of Volume of Register Book.

Appendix G.*—(See Rule 5).—Form of Index No. II.

(To contain the following columns).

1. Name of village or town in which property is situated. 2. Nature of deed and consideration. (In cases of leases of land, state whether lessor or lessee pays assessment, 3. Survey No. and Plot No. and House No. if any). 4. Government or firm. 5. Area (A. g.). 6. Assessment or jodi when given. (Rs. a. p.). 7. Name of executing party, or, in the case of a decree or order of the Civil Court, of defendant. 8. Place of residence and profession, trade, rank and title. Whether Agriculturist or not. 9. Name of claiming party, or, in the case of a decree of the Civil Court, of plaintiff. 10. Place of residence and profession, trade, rank and title. Whether agriculturist or not. 11. Dates of execution and registration of the document. 12. No. of Volume, page's and Serial No. in the Register Book. 13. Remarks.

Appendix H.—(See Rule 5).—Form of Index No. III.

(To contain the following columns).

1. Name of Testator or Donor. 2. Place of Residence. 3. Profession, Trade, Rank, or Title. 4. Name of Executor, Guardian, &c. 5. Place of Residence. 6. Profession, Trade, Rank, or Title. 7. Name of Person claiming under Will or Authority to adopt. 8. Place of Residence. 9. Profession, Trade, Rank or Title. 10. Description of property to which Document relates. 11. Date of Death of Testator or Donor. 12. Date of Registration of Will or Authority to adopt. 13. Volume of Book No. III. 14. Page. 15. Serial Number of Document.

Appendix I.—(See Rule 5).—Form of Index No. IV.

(To contain the following columns.)

1. Name of executing Party or Defendant (in case of Decree or Order of Civil Court). 2. Place of Residence. 3. Profession, Trade, Rank, or Title. 4. Names and Additions of Persons claiming under document, or, in case of Decrees and Orders of Civil Court, of Plaintiffs. 5. Nature of Document and Value of consideration. 6. Date of Registration. 7. Number of Book. 8. Volume. 9. Page. 10. Serial Number of Document.

Appendix J.—(See Rule 7).—Transliteration Table.

1. English —a, ā, i, ī, ū, e, ai, o, ou, am, ah, k, kh, g, gh, ng, ch, chh, j, jh, ny, t, th, d, dh, n, p, ph, b, bh, m, y, r, l, w, sh, sh, s, h, ksh, dn.
2. Gujarati.—(Omitted).
3. Marathi.—अ, आ, इ, ई, उ, ऊ, ए, ऐ, ओ, औ, क, ख, ग, घ, ङ, च, छ, ज, झ, ण, ट, ठ, ड, ढ, ण, त, थ, द, ध, न, प, फ, ब, भ, म, य, र, ल, व, श, ष, स, ह, ऋ, ॠ, ॡ, ॢ, ॣ.
4. Kanarese.—(Omitted). 5. Hindustani.—(Omitted).

Appendix K.—(See Rule 17).—Form of Index to Book No. II.

(To contain the following columns).

1. Name of presenting Party. 2. Page. 3. Number.

Appendix L.—(See Rule 19).—Form of Day-Book.*Wednesday, 15th July, 189 .*

(To contain the following columns).

1. Number. 2. Description of Instrument and Value of Property affected thereby —particulars regarding Fees levied. 3. Number of Folios.
4. Fees. { Copying.
 { Registration.
5. Reference to Register. 6. Whether Registration ordered or refused, or whether Deed has been withdrawn. 7. Date of Registration or refusal, i.e., the date on which Registration has been ordered or refused. 8. Date of Return to presenting Parties. 9. Signature of Recipient.

(Signed) X. Y., Sub-Registrar.

Appendix M.—(See Rule 20)—Form of Minute-Book.

Daily No.	<i>Wednesday, 15th July, 189 .</i>
1	<p>A. B. of C. D. presents for registration a document purporting to be Mortgage-deed of a field executed in his favour by E. F., also of C. D.; proceeding postponed pending issue of a summons to E. F.</p> <p>(Signed) X. Y., Sub-Registrar.</p>
No. 1 of 15th July 18 .	<p><i>Thursday, 8th August, 189 .</i></p> <p>Resumed proceeding in regard to document, Daily No. 1 of 15th July, 18 .</p> <p>A person, calling himself E. F., attends in obedience to a summons served upon him, and admits execution of the document. He is identified by G. H., a Vakeel, practising in the Court of the Munsiff of who is known to the undersigned, or who in his turn, is identified by K. L., who is known to the undersigned Registrar (or Sub-Registrar). Registration ordered in Book No. I.</p>

(Signed) X. Y., Sub-Registrar.

N. B.—In the case of consideration acknowledged, after the words “admits execution of the document,” add “and receipt of consideration.” If any payment of money or delivery of goods is made in the presence of the Registering Officer with reference to the document that is presented for registration, a record to that effect in this Book shall be made and signed by the Registering Officer, and shall also be endorsed on the document. Denial of receipt of consideration should also be noted.

Appendix N.—(See Rule 21).—Form of Cash-Book.
Wednesday 15th July, 18 ,

For what Fees, 'c., were realised.	Amount.
Amount of percentage now repaid by undersigned Sub-Registrar on Rs. 10, fee refunded to A. B. on document No. , the registration of which was refused	Rs. a. p. 2 0 0
Amount of percentage now repaid by undersigned Sub-Registrar on Rs. 2-8, fee surcharged on document No. of , refunded	0 8 0
Inspection of Register Book No. I for 1873 allowed on application No. I of this date	1 0 0
Search of Register for 1870 and 1871 on application No. 2 of this date	2 0 0
For personal attendance of Sub-Registrar at house of A. B., to examine A. B. regarding special Power-of-Attorney executed by her	10 0 0
Attestation fee levied in above case	2 0 0
Fine under Section 34 levied on resumption this day of proceedings, Daily No. 3 of 25th May, 18	5 0 0
Copy granted of General No. 378 of 1871 on application No. 2 of 14th July, 18 , 16 Folios	2 8 0
Total of Fees for registration and copying, &c., as shown in Day-Book of this Day's date, before close of Treasury	28 11 6
Total	53 11 6
(Signed) X. Y., Sub-Registrar.	.
Received Rs. (53-11-6) fifty-three, annas eleven, and pies six only.	Detail's of above for guidance of Treasury Officer.
(Signed). M. N., Officer in charge of Treasury.	(a) Registration fees.
Fees for registration, copying, 'c., as per Day-Book of this day's date, after close of Treasury	(b) Fines or penalties.
Thursday 16th July, 18	(c) Fees for copies granted.
Balance in hand from previous day	8 2 6
Total of fees for registration, copying, &c., as per Day-Book of this day's date	8 2 6
Total	46 10 0
Total	54 12 6
(Signed) X. Y., Sub-Registrar.	
Received Rs. (54-12-6) fifty-four, annas twelve, and pies six only.	* Details of above for guidance of Treasury Officer
(Signed) M. N., Officer in charge of Treasury.	(a) Registration fees.
	(b) Fines or penalties.
	(c) Fees for copies granted.

* Fines under Section 24 or 34 to be shown under item (b) in this abstract; fees for copies granted, but not copying fee, to be shown under item (c). All other fees and realisations, except sale proceeds of dead-stock articles which should, in the rare instance of such being realised, be entered under a separate heading of their own, to be shown under item (a) as registration fees.

Appendix O.—(See Rule 23).—Form of Batta-Book.

Wednesday, 15th July, 189 .

Dr.

Cr.

Number in Day-Book of Document in connection with which Fee was received	For what Fee was taken.	Amount.	How disposed of.	Amount.
		Rs. a. p.		Rs. a. p.
1 of 15th July, 189 .	From A. B. for a summons to C. D. ...	1 0 0	Returned to O.P. batta received for remuneration of witness Q. R., on whom summons could not be served ...	0 8 0
	Ditto Ditto E.F. Ditto	1 0 0		
	From A. B. for batta for C. D. ...	1 12 0	Forwarded to Magistrate with application for summonses to be issued to—	
	Ditto Ditto for E. F. ...	0 10 0		
2 of 14th July.....	From G. H. for a summons to J. K. ...	1 0 0	C. D. ... Rs. 2 12 0	
	For batta to ditto ...	1 4 0	E. F. ... „ 1 10 0	
			J. K. ... „ 2 4 0	
				6 10 0
4 of 1st July.....	Batta returned by Magistrate, summons on Q. R. not having been served ...	0 8 0		
	Total ...	7 2 0	Tot 1 ...	7 2 0

(Signed) X. Y., Sub-Registrar.

Received Rs. (6 10-0) six, and annas ten only.

(Signed) X. Y., Sub-Registrar

(Signed) M. N., Magistrate.

Appendix P.—(See Rule 26).

List of Books, Papers, &c., destroyed under the provisions of Rule 26.

(To contain the following columns.)

1. Number and date of the paper, &c., if any. 2. Subject of the paper, &c. 3. Date of Destruction. 4. Remark.—I hereby certify that these papers, &c., were destroyed in the presence of the undersigned.*

(Signature).

Appendix Q.

List of documents destroyed under Section 85 and Rule 27.

(To contain the following columns.)

1. Date of Presentation. 2. Office in which presented. 3. Nature of Document and Value of amount of consideration. 4. Name of Presenter. 5. Executed by. 6. In favour of. 7. Date of Registration or refusal, as the case may be. 8. Date of Order of Destruction by the Inspector-General. 9. Date of actual Destruction. 10. Reference to Register.

I hereby certify that these documents were destroyed in the presence of the undersigned.*

(Signature).

Appendix R.—(See Rule 31).

* Form of Memorandum under Sections 64, 65, 66, and 67 of Act III of 1877.
(To contain the following columns).

1. Serial Number. 2. Copy of Endorsements and Certificates (Sections 52, 58 to 60). 3. Nature of Document. 4. Description and Value of property affected by the Document. 5. Situation of Property. 6. Names of Executing Party. 7. Place of Residence. 8. Profession, Rank, or Title. 9. Names of Claiming Parties. 10. Place of Residence. 11. Profession, Rank, or Title. 12. Reference to Register.

Forwarded to the Sub-Registrar of _____ under Section _____ of the Indian Registration Act III of 1877.

Date of receipt

+ { Filed at _____, No. _____, Volume _____
Date of Supplement to Book No. I, Part I.

Date

Registrar or Sub-Registrar.

Sub-Registrar.

Appendix S.—(See Rule 35, para. 1).—Form of Miscellaneous Receipt.

Date	Date
Fee (or Travelling expenses) received for	Fee (or Travelling expenses) received for.
Paid by.....	Paid by.....
Amount received	Amount received
Registrar (or Sub-Registrar).	Registrar (or Sub-Registrar).

Appendix T —Form of Receipt under Section 52 and Rule 25, para. 2.

Daily No.	Daily No.
Date of 18 .	Date of 18 .
Nature of Document.	Received for registration (or deposit) from.
By whom presented.	
Received fee as follows :—	Received fees as follows :—
Rs. a. p.	Rs. a. p.
Registration fee.....	Registration fee
Copying fee (Folios)	Copying fee (Folios)
Extra fee for registration by Registrar	Extra fee or registration by Registrar
Extra registration fee for registration at private residence	Extra registration fee for registration at private residence
Attendance fee for ditto...	Attendance fee for ditto...
Fees of copies or Memoranda under Sections 64, 65, 66 and 67.....	Fee for copies or Memoranda under Sections 64, 65, 66 and 67
Fine under Section 24.....	Fine under Section 24.....
Do. under Section 34	Do. under Section 34
Total Rs....	Total Rs....
Registrar (or Sub-Registrar).	Registrar (or Sub-Registrar).

* The value of the stamp on the original should be shown on the Memorandum as also the stamp-vendor's endorsement.

† This form of endorsement by the receiving and filing officer should be followed in the case of certificates under the Land Improvement Act, filed in Supplement to Book No. I, Part III.

Appendix U.—(See Rule 42).

Form of Endorsement and Certificate under Sections 58 to 60.

A. B., executing party, Merchant, resident at Thana, admits execution, and acknowledges or denies receipt of consideration, as the case may be. *A. B.* is personally known to the undersigned Registrar (or Sub-Registrar).

(Signed) *A. B.*,

(") *X. Y.*,

Registrar or Sub-Registrar.

15th July, 18 .

Or *C. D.*, Writer, resident at Thana, examined as to identity of *A. B.*; *C. D.* is personally known to the undersigned; or *C. D.*, in his turn, identified by *E. F.*, who is personally known to the undersigned Registrar (or Sub-Registrar).

(Signed) *C. D.*,

(") *E. F.*,

(") *X. Y.*,

Registrar or Sub-Registrar.

15th July 18 .

E. F. (Agent of *G. H.*, executing party), Vakil, resident at Thana, admits execution by *G. H.*, and acknowledges or denies receipt of consideration, as the case may be. He is personally known to the undersigned Registrar (or Sub-Registrar), or as above.

(Signed) *E. F.*,

(") *X. Y.*,

Registrar or Sub-Registrar.

July 18 .

A. B., Collector, executing party, resident at Thana, is exempt from personal appearance under Section 88 of the Indian Registration Act III of 1877. His signature and seal are identified by *C. D.*, Clerk, resident at Thana, who is personally known to the undersigned Registrar (or Sub-Registrar).

(Signed) *C. D.*,

(") *X. Y.*,

Registrar or Sub-Registrar.

July 18 .

Or the signature and seal of *A. B.*, Collector, are known to the undersigned Registrar (or Sub-Registrar)

(Signed) *X. Y.*,

Registrar or Sub-Registrar.

July 18 .

* Registered No. 4 at page 12, Volume II of Book No. I.

[S. L.]

(Signed) *X. Y.*,

Registrar or Sub-Registrar.

16th July, 18 .

* NOTE.—The date of registration in the endorsement under Section 60 should be the date on which the document is compared with the copy in the Register Book, and the latter certified to be true copy.

Appendix V.—(See Rule 66).

Register or Refunds on account of (a) Deeds refused for Registration or withdrawn, (b) Fees Surcharged, or (c) Fines remitted in the Registrar's Office of .

(To contain the following columns).

1. Date of submission of bill for sanction. 2. Date of receipt by Registering Officer of bill. 3. Amount of bill. 4. Name in full and residence of the payee. 5. Reference to page and volume of day or cash book in which entry regarding fee to be refunded appears. 6. Date of delivery of refund bill to payee or treasury officer (as the case may be). 7. Signature in acknowledgment of receipt of bill by payee or treasury officer (as the case may be). 8. Signature of Registering Officer.

NOTE.—In those offices in which there is no Sub-Treasury close at hand, the number and date of the communication from the Sub-Treasury officer acknowledging receipt of the bill should be entered in column 7.

Appendix W-(I) to W-(IV).†—(See Rule 67).—Registration return. (Omitted).

Appendix X.—(Cancelled by Notn. No. 7859, B. G. G., 1908, Pt. 1, p. 1140).

Appendix Y.†—(See Rule 69).—Form of Percentage Bill. (Omitted).

* Notn. No. 6981, B. G. G., 1908, Pt. I, p. 1285.

† These Appendices here have been omitted.

Appendix Z.

REVENUE DEPARTMENT.

Bombay Castle, 19th June, 1878.

The following form of security bond, prescribed under Government Resolution No. 4022 dated 15th July, 1873, for use in the Registration Department, is published for general information in lieu of the form (U) published at page 854 of the *Government Gazette* of 3rd August, 1871 :—

Know all men by these presents that we A. B. and C., are held and firmly bound to the Secretary of State for India in Council his successors and assigns, in the sum of Rs. to be paid to the said Secretary of State for India in Council, his successors or assigns, for which payment to be well and truly made, we bind ourselves and each of us, our and each of our Heirs, Executors and Administrators, and every of them jointly and severally by these presents, sealed with our seals, dated this day of in the Christian year, 18 .

2. Whereas the abovenamed A, is appointed to fill the office of a Sub-Registrar of Assurances, in the Bombay Presidency, including Sind, and as the holder of such office, he is a Public Accountant within the meaning of Act XII of 1850. And whereas in pursuance of the Rules made by the Governor in Council of Bombay in at behalf, the said A. has procured two approved persons to be his sureties for the due discharge of the trusts of his office, and for the due account of all monies or documents which shall come into his possession or control by reason of his office.

3. And whereas the said B. and C. have agreed to become sureties to the said Secretary of State for India in Council, his successors and assigns, for the due discharge by the said A. of the trusts of his office, and for the due account of all monies or documents which shall come into his possession or control by reason of his office.

4. Now the condition of the above-written bond or obligation is such that if the said A. B. and C., or any of them, their, or any of their Heirs, Executors or Administrators, shall pay or cause to be paid, unto the said Secretary of State for India in Council, his successors or assigns, the amount of any loss or defalcation in the accounts of A., or of any loss or damage sustained by Government owing to the misconduct or neglect of the said A. with regard to the documents in his charge within 24 hours after the amount of any such loss or defalcation shall have been demanded by the person or persons at the head of the office to which the said A. belongs, such demand to be in writing, and to be left at the office or place of residence of A. B. and C., respectively, then the above-written bond or obligation shall be void, otherwise to remain in full force and virtue, and the person or persons at the head of the office, to which the said A. belongs, may proceed against him, and his sureties, the said B. and C., for the said loss or defalcation in the account of A., or arising out of his misconduct or neglect as if the amount thereof were an arrear of land revenue due by them or any of them to Government. In witness whereof the said A. B. and C. hereunto set their hands and seals, this day of 18 .

RULES UNDER S. 91 OF THE REGISTRATION ACT.

In exercise of the powers conferred by section 91 of the Indian Registration Act, 1877, and by section 213 of the Bombay Land Revenue Code, 1879, and of all other powers enabling him on this behalf, the Governor in Council is pleased to make the following rules to regulate searches for, and the inspection of, and the grant of extracts from, or copies of, public documents, in supersession of all previous rules and orders on the same subjects :—*

I.—INSPECTION.

1. *Inspection of documents to which the public have a legal right when and how to be permitted.*—The documents, maps, registers, accounts and records, the right of inspection of which is provided for in section 91 of the Indian Registration Act, 1877, and in section 213 of the Bombay Land Revenue Code, 1879, and all public documents which any person has, under the provisions of any law for the time being in force, a right to inspect, shall be open to inspection in the office of the officer in charge of the same during the usual office-hours every day, except Sundays and public holidays, on payment of the fee hereinafter prescribed in this behalf: Provided always that no fee shall be levied by any village

officer for allowing inspection of any such document, map, register, account or other public document as aforesaid which is in his charge.*

2. *Inspection not to be permitted without a legal right.*—Except in the cases named in the last preceding Rule, no inspection of any public document will be allowed.

II — EXTRACTS AND COPIES.

3. *Uncertified copies and extracts how obtained.*—No uncertified copy or extract shall be obtainable of or from any document other than those described in Rule 1, nor otherwise than under this Rule.

Any person entitled to inspect any public document under Rule 1 may himself make a copy, or employ his own agent to make a copy, of any public document, or of any portion of any public document of which he has duly obtained inspection, but no copy so made shall be certified by any public officer.

4. *Certified copies or extracts of or from the documents described in Rule 1 how obtainable.*—The officer in charge of any public document described in Rule 1 shall cause to be prepared, and give a certified copy of the same, or of any portion thereof, under his own signature, to any person applying for such copy, on payment (except in the case provided for in Rule 5 A†) of the fee hereinafter prescribed in this behalf: Provided that every application for a certified copy of any public document in the charge of a village officer shall be made to the Mamlatdar or Mahalkari to whom such officer is subordinate, who shall cause the copy to be prepared by the village accountant. Every such copy, after being compared by the village accountant with the original, shall be signed by him in token of its being correct, and shall be sent by him to the Mamlatdar or Mahalkari for the purpose of being certified and made over to the applicant. No village officer shall himself certify a copy to be a true copy, or receive or grant an application for any such copy.

5. *When certified copies or extracts may be granted of or from public documents other than those described in Rule 1.*—Subject to the proviso contained in the preceding Rule, certified copies of public documents, or of portions of public documents other than those described in Rule 1, may be granted by the officer in charge thereof to any person applying for the same, on payment (except in the case provided for in Rule 5 A†) of the fee hereinafter prescribed in this behalf: Provided—

(a) that in disposing of any such application the officer to whom the same is made shall be guided by the orders of Government and of any officer to whom he is subordinate, and in case of doubt shall, before disposing of the same, refer to his immediate superior for instructions;

(b) that no copy of any official correspondence or of any opinion of a Government law officer, or of any order or resolution embodying any such opinion, shall be given by any officer subordinate to a Collector without the Collector's previous permission, or by any Survey Officer without the previous permission of the Survey Commissioner;

(c) that no copy shall be granted of any record, map or plan which has been printed or lithographed and published under the authority of Government.

(d) that no copy of any document is to be given in any case in which it is obvious that such a course would be prejudicial to Government.

5A.†—*Certified copies to be given free in certain cases.*—When any public servant is departmentally fined, reduced, suspended or dismissed, he shall be entitled to receive, free of charge, a certified copy of the final order recorded in his case.

6. *Free-endorsement to be written on certified copies.*—On every certified copy or extract granted under these Rules "and delivered otherwise than through the agency of the Value Payable Post"§ (except in the case provided for in Rule 5A†) there shall be

* "Sanads being documents which Government give into the hands of the persons whose titles they evidence, they do not form part of the records of any Government office. The only record kept of them is a register. Hence the law provides for extracts being given from these registers when applied for, but not for the grant of copies of the sanads themselves.

In cases in which it is found necessary to make out a sanad in the names of several sharees, a copy may be given gratis to each, but each of such copies should be signed and executed by the same officer and treated as an original document. In no other case can a copy of a sanad be granted, but an extract from the register of sanads may be given on payment of the fees prescribed in the rules under section 213 of the Land Revenue Code and section 91 of the Registration Act." (B. G. Resolution, E. D., No. 4180, dated 2nd June, 1883).

† Note, No. 6981, B. G. G., 1903, Pt. I, p. 1285.

‡ Note, No. 6981, B. G. G., 1903, Pt. I, p. 1285.

§ Note, No. 8679, B. G. G., 1906, Pt. I, p. 1191.

endorsed by the officer who receives the fee for same, a receipt in the following form (namely):—

"Received Rs. A. , being the fee for this certified copy. (Signed) A. B."
Dated the of 189 .

7. *Form of certificate.*—The certificate on all certified copies or extracts granted under these Rules shall be in the form prescribed by section 76 of the Indian Evidence Act.

III.—SEARCHES.

3. *Search-fee when payable.*—When an application is made for an inspection or copy of any public document, or of any portion of a public document, and such application does not distinctly describe the number, date and nature of the document required, or if the description given in such application is incorrect, and it shall in consequence be necessary for the officer in charge of the document to search his records in order to find it, a fee, at the rate hereinafter prescribed, shall be payable by the applicant for such search, whether the inspection or copy for which he applies shall, on examination of the said document by the said officer, be granted or not: Provided that no such fee shall be levied by a village officer.

IV.—FEES.*

9. *Tables of fees to be levied.*—The following fees shall be levied in cash under these Rules (namely):—

(1) For every inspection granted under Rule 1 by any officer other than a village officer, 8 annas.

(2) For every certified copy of a public document not falling under Article (3) of this Table:—

(a) if the original be in English, for every 100 words or fraction of 100 words, 2 annas.

(b) if the original be in the vernacular, for every 100 words or fraction of 100 words, 1½ annas.

(c) if the original be in a tabular form, whether in English or the vernacular, } twice the rates respectively named in clauses (a) and (b).

(3) For every certified extract from a Register of Alienations granted under section 53 of the Bombay Land Revenue Code, } 1 anna for every rupee of the amount of alienated revenue, "or if the Sanad lost or destroyed had been granted under Bombay Act IV of 1868, or under section 133 of the Bombay Land Revenue Code, 1879, a sum equal to one-half of the survey fee which the holder of the building site included in the Sanad would be liable to pay under section 132 of the said Code if not exempted by the second paragraph of that section."† Provided that the fee shall in no case exceed Rs. 10 or be less than 8 annas.

(4) For every certified copy of a map of a survey number, or of a recognized share of a survey number, or of a field or of any ordinary (uncoloured) map or plan of any immoveable property, 1 rupee.

(5) For every certified copy of a map or plan, or of any portion of map or plan not falling under Article (4) of this Table, } such fee not exceeding fifteen rupees, and not less than one rupee, as the officer who certifies the copy shall determine: Provided that no fee exceeding Rs. 5 shall be charged by any officer subordinate to a Collector except with the permission of the Collector, or by a survey officer except with the permission of the Survey Commissioner.

(6) For every search made by any officer other than a village officer, } 1 rupee for each year of which the records shall be searched.

* Non-official copyists should be paid at a rate varying from two-thirds to the full amount of the fees leviable under Rule 9. (*B. G. Resolution, No. 7689, dated 26th September, 1884, R. D.*). Kulkarlis and Talatis are to be permitted to take fees for making copies of maps and plans. (*B. G. Resolution, No. 4106, dated 21st May, 1885, R. D.*).

† The words quoted have been inserted by Notn. No. 3410, *B. G. O.*, 1883, Pt. I, p. 333.

APPENDIX IV.

(7)* For every authenticated translation of decisions, orders and other reasons therefor, and of exhibits in formal or summary inquiries under the Bombay Land Revenue Code, 1879.—(a) for the first 100 or fraction of 100 words, 8 annas; (b) for every subsequent 100 or fraction of 100 words, 4 annas.

"Provided that when any fee is required to be recovered through the agency of the Value Payable Post, and postal fee shall be levied in addition, and when the total amount of fee together with postage and postal fee includes a fraction of an anna, a whole anna shall be levied in place of the fraction"†

10. *Fee to be paid in advance.*—Every fee payable in accordance with the foregoing table shall be paid in advance, "or when so required, through the agency of the Value Payable Post."†

11. *Disposal of fees.*—The amount of all fees so received shall be entered in a separate book to be kept for this purpose by the officer in charge of the records, and shall be remitted before the close of each month to the nearest Government Treasury after deducting the amount paid, in the case of certified copies and extracts, to section-writers under Government Resolution No. 3356, dated 11th November, 1874, Financial Department, or under any other orders of Government that may be hereafter issued.

V.—MISCELLANEOUS.

12. *Application under these Rules to be made in writing.*—Every application under these Rules, except an application under Rule 1 to a village officer, must be made in writing, "and may require the copy, extract or translation to be forwarded by Value Payable Post to any Post Office which is also a money-order office."†

13. *Proceedings to be recorded on each application.*—Every such application shall be numbered and filed by the officer to whom it is presented "or by whom it is received,"* and shall be endorsed with a memorandum, under his signature, stating the date on which it was presented "or received,"* the amount of fees, if any, received either at the time of presentation thereof or subsequently at any time, and the date and manner in which the application was disposed of. "Copies, extracts and translations shall ordinarily be ready for delivery or be forwarded within fifteen days of the presentation or receipt of the application."†

14. *Care to be exercised in granting inspections or copies as a matter of right.*—In considering any application purporting to be made under sections 90 and 91 of the Indian Registration Act, 1877, or section 213 of the Bombay Land Revenue Code, 1879, or under any other law which grants to any person a right of inspection, special care must be taken to see that the public document, with respect to which such application is made, is one to which the law relied upon is applicable, and that the applicant is a person entitled to inspection (and, therefore, if he requires it under section 73 of the Indian Evidence Act, to a copy) before granting the application as a matter of right.

15. *Saving of the provisions of the Stamp and Court Fees Acts.*—Nothing in these Rules is to be deemed to affect the provisions of the Stamp Act or Court Fees Act. The stamp-duty or court-fees with which any application, copy or extract made or furnished under these Rules may be chargeable, is to be deemed to be in addition to the fees prescribed by Rule 9, and care is to be taken that the requirements of the Stamp Act and Court Fees Act are properly fulfilled in respect of every such application, copy or extract.

15A.* *Saving of certain records and registers.*—Nothing in these rules shall apply to any record or register kept under the Bombay Land Record of Rights Act, 1903, unless it is specially applied thereto by any rule under s. 14 of the said Act.

16. *"Public document" defined.*—In these Rules the words "public document" are to be deemed to have the same meaning as in the Indian Evidence Act I of 1872 (see section 74 of that Act).

17. *Local extent of these Rules.*—Nothing in these Rules applies to the City of Bombay or to any Civil or Criminal Court.

* Note. No. 6981, B. G. G., 1903, Pt. I, p. 1265.

† Note. No. 8679, B. G. G., 1906, Pt. I, p. 1191

APPENDIX E.

FEEs UNDER THE REGISTRATION ACT.

(For the Presidency of Bombay).

The following Table of Fees payable under the Indian Registration Act No. III of 1877 is with the sanction of the Governor-General of India in Council published for general information in supersession of the Table published at pages 353 to 355 of the *Bombay Government Gazette* of 17th May, 1883 :—*

- 1.—For the registration of any Acknowledgment (not being of the nature described in Article II), Agreement, Award, Bond Bill of Exchange, Bill of Sale, Composition Deed, Contract, Covenant, Grant, Lease, Articles of Partnership, Release, Settlement, Declaration of Trust, Revocation of a Trust or Settlement, or of any Instrument of Assignment, Conveyance, Gift, Mortgage, Partition, Sale or Transfer, or of any certified copy of a Decree or Order of Court, or of any Document not hereinafter expressly provided for, in which the amount or value of the consideration therefor or of the property, if any to which it relates, is capable of being expressed :

(a). *If the amount or value of the consideration therefor, or of the property to which such instrument or document relates, is wholly expressed therein.*

						Ra.	a.	p.
1.	When the amount or value does not exceed Rs. 50	...	0	4	0			
2.	Do. do. exceeds Rs. 50 but does not exceed Rs. 100	...	0	8	0			
3.	Do. do. do. 100	do.	200	...	1	0	0	
4.	Do. do. do. 200	do.	400	...	2	0	0	
5.	Do. do. do. 400	do.	600	...	3	0	0	
6.	Do. do. do. 600	do.	1,000	...	4	0	0	
7.	Do. do. do. 1,000	do.	1,500	...	5	0	0	
8.	Do. do. do. 1,500	do.	2,000	...	6	0	0	
9.	Do. do. do. 2,000	do.	3,000	...	8	0	0	
10.	Do. do. do. 3,000	do.	4,000	...	10	0	0	
11.	Do. do. do. 4,000	do.	5,000	...	12	0	0	
12.	Do. do. do. 5,000	do.	7,500	...	14	0	0	
13.	Do. do. do. 7,500	do.	10,000	...	16	0	0	
	Do. do. do. 10,000	do.	15,000	...	18	0	0	
	Do. do. do. 15,000	do.	20,000	...	20	0	0	

16. For every Rs. 1,000 or part thereof, in excess of Rs. 20,000

1 0 0

Note I.—When property subject to a mortgage is sold to the mortgagee, the difference between the purchase-money and the amount of the mortgage in respect of which registration fee has already been paid shall be considered as the amount of consideration for the deed of sale, provided the mortgage-deed is proved to the satisfaction of the registering officer to have been duly registered, and the fact of such registration is noted in the deed of sale. When there is no difference between the purchase-money and the amount of the mortgage, the registration fee leviable shall be annas 4.

Note II.—The registration fee leviable upon a document purporting to give collateral or auxiliary or additional or substituted security, or security by way of further assurance, where the principal or primary mortgage is proved to the satisfaction of the registering officer to have been duly registered, shall be the same as for the principal or primary mortgage, if the same does not exceed Rs. 2; otherwise it shall be Rs. 2.

Note III.—In the case of an instrument of partition, the value of the separated share or shares on which stamp-duty is leviable, shall be deemed to be the amount or value of the property to which such instrument relates.

Note IV.—The fee on any instrument comprising or relating to several distinct matters shall be the aggregate of the fees with which separate instruments each comprising or relating to one of such matters would be chargeable.

* Notn. No. 182, B. G. G., 1883, Pt. I, pp. 19-22.

† Notn. No. 122, B. G. G., 1902, Pt. I, p. 35.

‡ Notn. No. 5220, B. G. G., 1903, Pt. I, p. 262.

§ Notn. No. 4869, 18th May, 1907 (B. G. G., 1907, Pt. I, p. 797).

|| Notn. No. 5748, B. G. G., 1909, Pt. I, p. 1055. Compare ss. 5 and 6 of the Indian Stamp Act II of 1899.

Note V.—An instrument so framed as to come within two or more descriptions of the documents enumerated shall, when the fees chargeable thereunder are different, be charged with the highest of such fees.*

(b) *If such amount or value is only partly expressed.*

Rs. a. p.

17. The same *ad valorem* fee as above on the amount or value which is expressed and an additional fee of ... 2 0 0

(c) *If such amount or value is not expressed at all,*

18. A fixed fee of ... 10 0 0

I.—For the registration of a { The same fee as for the lease surrendered, if the Surrender of a lease. } same does not exceed Rs. 4; otherwise, Rs. 4.

II.—For the registration of a document which } The same fee as for the principal acknowledges merely the payment of the } document, if the same consideration for some other document } does not exceed Rs. 2; otherwise, Rs. 2.

*Note.†—This article applies specially to documents which acknowledge the receipt of the consideration expressed in a previous registered document but not paid at the time of the execution of such document, where an *ad valorem* fee, according to the amount of such consideration has, under Article I, been levied in respect of such previous registered document.*

It also applies to re-conveyances executed on the extinction of mortgage liens and to documents acknowledging the receipt of instalments on account of mortgages, subject to the following conditions:—

(a) In respect of documents acknowledging the extinction of a mortgage lien in consideration of one payment less in amount than that originally due upon the mortgage, the registration fee shall be calculated according to the *ad valorem* scale in Article I, to a maximum of Rs. 2-0-0.

(b) In respect of documents acknowledging the receipt of payments, by instalment, on account of a mortgage, the registration fee in each case shall be calculated according to the *ad valorem* scale in Article I, subject to a maximum of Rs. 2-0-0.

An *ad valorem* registration fee not exceeding Rs. 2, and not exceeding the fee levied on the previous registered deeds should be levied in the case of Counterparts or Duplicates of Releases, Partition-deeds, Deeds of exchange and the like

In the case of Consent-deeds, when the consent is given for no monetary consideration, a fee of Rs. 4 should be charged.

III.—For the registration of a Power-of-Attorney, a Writing of Divorcement, a Certificate of Heirship, Guardianship, Administratorship, or Executorship, or of any document which does not fall within any other Article of this Table, Rs. 2-0-0.

*Note.‡—Where an *ad valorem* fee on the property to which such Trust-deed relates has once been paid on the registration of a deed appointing a body of trustees for the management of any property, and a subsequent deed appointing one or more Trustees in addition to or in place of some of those appointed as above is presented for registration, such subsequent deed shall be liable to the fixed registration fee of Rs. 2 under this Article.*

Wills and Authorities to Adopt.

IV.—For registration of a Will when presented open, or of an authority to adopt, Rs. 2-0-0.

V.—For deposit of a sealed cover containing a Will, Rs. 2-0-0.

VI.—For opening such cover, Rs. 2-0-0.

VII.—For withdrawal of such cover, Rs. 2-0-0.

Besides the expense of copying the subscription or contents according to the rate laid down in Article IX.

Searches and Inspections.

VIII.—(1) For the first year for each entry or document for which search or inspection of the Register Books or Indexes is made, Rs. 1-0-0.

* Notn. No. 5748, B. G. G., 1909, Pt. I, p. 1055. Compare ss. 5 and 6 of the Indian Stamp Act II of 1899.

† Notn. No. 9586, 8th Oct. 1906 (B. G. G., 1906, Pt. I, p. 1297).

‡ Notn. No. 8704, 29th December, 1888 (B. G. G., 1889, Pt. I, p. 8).

§ Notn. No. 2770, B. G. G., 1898, Pt. I, p. 344.

¶ Notn. No. 338, 12th Jan. 1907 (B. G. G., 1907, Pt. I p. 89).

For every subsequent year for each entry or document, Re. 0-4-0.
Provided that no fee in respect of any one entry or document shall exceed Rs. 5-0-0.

Provided also that no fee in respect of any number of entries or documents relating to one and the same property shall exceed Rs. 10-0-0.

- (2) If in an application to the Registration Officer for the copy of an entry, the name of the claiming and executing parties, the nature of the document, and date of registration are shown, the fee for search shall not be levied.
- (3) Government officers requiring to search or inspect the Register Books or Indexes for *bona fide* public purposes, are exempt from the payment of fees.

(Copying Fees, Grant of Copies, &c.)

IX.*—For copying documents in the register books, besides the ordinary registration fee, for each folio of 100 words, Re. 0-2-0.

IX A.†—For comparing printed copies of printed documents presented for registration, for each folio of 100 words, Rs. 0-0-3. For filing each such copy, Rs. 0-8-0.

X.*—For making or granting copies of entries and documents for the benefit of any person, or to be forwarded to any other office under Sections 65, 66 and 67, or for making or granting copies of reasons for refusal by a Registrar under Sections 76, for each folio of 100 words, Rs. 0-2-0.

XI.—For granting copy of map :—

Provided that the arrangements for, and the cost of, making such copy must be made and borne by the person who applies for it, Rs. 0-8-0.

XIA.‡—Government officers requiring to take copies of entries, documents or maps for *bona fide* public purposes are exempt from the payment of fees.

(Extra or additional Fees.)

XII.§—For registration of any document by a Registrar, Rs. 4-0-0, in addition to the ordinary fee.

Note.—This Article is not applicable to the Registrar on District of Deesa.

XIII.—Registration by the Registrar of Bombay)
under Section 30, Clause B—

- (a) If the document relates to property situated in the Bombay Presidency, but beyond the limits of the Bombay Registration District, Rs. 8-0-0.
 - (b) If the document relates to property situated beyond the limits of the Bombay Presidency, Rs. 16-0-0.
- } In addition to the ordinary fee.

XIV.—For the issue of a Commission under Section 33 or 38—

- (a) If the person is physically unable to attend the Office or is confined in Jail, Rs. 5-0-0. (b) Otherwise, Rs. 10-0-0.

XV.—For filing translation (Section 62), Rs. 2-0-0.

XVI.||—Issue of Commission or attendance at a private residence or Jail—

- (1) *For every attendance at a private residence—*
- (a) for registration of one or more documents executed by one and the same individual, or
- (b) for the acceptance for registration of one or more documents executed in favour of one and the same individual, or
- (c) for the attestation of one or more powers-of-attorney executed by one and the same individual, or

* Notn. No. 8003, 17th Aug. 1909 *B. G. G.*, 1909, Pt. I, pp. 484-5.

† Notn. No. 9110A, *B. G. G.*, 1908, Pt. I, p. 1412.

‡ Notn. No. 378, 12th Jan. 1907 *B. G. G.*, 1907, Pt. I, p. 89.

§ When the registration of any document properly registrable by a Sub-Registrar is performed by a Registrar, owing to the former being a party to the transaction represented by such document, the extra fee will not be charged.

|| Notn. No. 4817, *B. G. G.*, 1909, Pt. I, p. 881.

- (d) for the examination of one and the same individual under s. 33 or 38, there shall be paid, besides travelling allowance, as extra fee of Rs. 10
- (e) *For attendance at a Jail—*
- (a) for the registration of one or more documents executed by a person confined in Jail, or
- (b) for acceptance of one or more documents executed in his favour, or
- (c) for attestation of one or more powers-of-attorney executed by such person, or
- (d) for the examination of such person under s. 33 or 38, the fee to be paid, besides travelling allowance, shall be Rs. 5.

Provided that where two or more persons who execute the same document and who are entitled to exemption from attending the registration Office, reside together, only one attendance or commission fee shall be charged so far as those persons are concerned; and that when an attendance fee has been paid for attending at private residence of one or more persons, or at a Jail where one or more persons are confined, such person or persons shall be entitled to present for registration or attestation at such attendance, any number of documents or powers-of-attorney, or to admit execution of any number of documents presented for registration, without payment of any further attendance fees.

Note.—The Inspector-General of Registration may in his discretion remit the fees under (1) and (2) when it appears to him that their exaction would be productive of hardship.

*Note **—For the services of a nurse or female assistant, if required, to accompany a Registering Officer to a private residence to take the thumb impression of a female executant who is *pardanashin* or of high birth, an extra fee of Rs. 5 per document so executed shall be charged.

XVII.—For the safe custody and return of any document presented for registration and not applied for under para. 2 of Section 61 of the Act within two months from the date of registration, namely, for every day in the third month from day of registration until such document is so applied for, Re. 0-1-0.

Do in the fourth month, Re. 0-2 0

Provided, however, that the maximum fee payable under this Article for each document so returned shall be Re. 5 0-0.

† Provided, also, that a Registrar may, in his discretion, remit in whole or in part, fees leviable under this Article by himself or by Registering Officers subordinate to him, in cases in which it appears to him that the levy of such fees would be productive of injustice or hardship.

(*Memoranda, Attestation, Summons and Warrants Fees.*)

XVIII.—For every copy of the Memorandum to be sent under Sections 64, 65, and 66, Re. 0-8-0.

XIX.—For the attestation of a Power-of-Attorney, if Special, Re. 1-0-0.
Do. do. if General, Re. 2-0-0.

XX.—Peon's fee for every summons, Re. 1-0-0.

XXI.—For every warrant for seizure of person, Re. 2 0-0.

Note.†—(a) In the case of leases, the amount or value of the consideration, on which the *ad valorem* registration fee is to be assessed, shall be as follows:—

If the lease is granted—

(1) in consideration of the payment of a fine or premium or money advanced only;

(2) in consideration of the payment of a fine or premium or money advanced in addition to rent reserved;

(3) in consideration of the payment of an annual rent without the payment of a fine or premium or money advanced;

(4) for a period less than a year;

The registration fee will be assessed on—
the amount of such fine or premium or money advanced;

the average annual rent reserved, in addition to the amount of fine or premium or money advanced;

the average annual rent reserved;

the total sum payable under the lease;

* *Notn. No. 10618, B. G. G., 1904, Pt. I, p. 1753.*

† *Notn. No. 2413, 15th Mar. 1910 (B. G. G., 1910, Pt. I, p. 429).*

‡ *Notes (a), (b), (c), (d) and (e) have been substituted by Notn. No. 9536, 8th Oct. 1906 (B. G. G., 1906, Pt. I, p. 1397).*

(5) for an indefinite period ;

the average annual rent which would be payable for the first ten years, if the lease continued so long ;

(6) in perpetuity ;

one-fifth of the whole amount of rents which would be payable in respect of the first fifty years of the lease.

Note.—(aa)* Where, in the talukas of Mahim, Bassein and Salsette of the Thana District, and the Talukas of Pen and Panvel of the Kolaba District, a lease for *agricultural purposes of immovable property* for a period not exceeding one year drawn up in a standard printed form, is presented for registration, no copying fee shall be charged ; and instead of the *ad valorem* registration fee under Art. I, a fixed registration fee of annas two shall be charged for each such lease irrespective of the amount of rent. Such printed forms will be supplied gratis.

Note.—(b) If a Patta or lease be given to a cultivator and the Kabulayat or counterpart of such Patta or lease be registered in the same office and on the same day as the Patta or lease, the registration fee chargeable in respect of the two documents shall not be greater than the fee which would have been charged on the lease alone.

Note.—(c) In the case of annuity-bonds, the amount or value of the consideration, on which the *ad valorem* registration fee is to be assessed, shall be as follows :—

If the annuity-bond is granted—

The registration fee will be assessed on—
the total amount to be paid during the period ;

(1) for a definite period exceeding one year ;

(2) for an indefinite period—

(a) when in perpetuity ;

the total amount payable during the first twenty years calculated from the date on which the first payment becomes due ;

(b) when for an indefinite period terminable with any life in being at the date of such annuity-bond ;

the total amount payable during the first twelve years calculated from the date on which the first payment becomes due.

* *Note.*—(d) In the case of service-bonds and agreements for the hire of moveable property, the amount or value of the consideration, on which the *ad valorem* registration fee is to be assessed, shall be as follows :—

If the service-bond or agreement is granted—

The registration fee will be assessed on—

(1) for a period less than a year ;

the total amount payable under the service-bond or agreement.

(2) for a definite period exceeding one year ;

the average annual amount to be paid during the period.

(3) for an indefinite period ;

the average annual amount to be paid during the first ten years.

Note.—(e) If in any case the rent, remuneration or hire is payable partly in money and partly in kind, and the money-value of the portion payable in kind is not expressed, the registration-fee will be charged at twice the amount of the *ad valorem* fee chargeable in respect of the amount payable in money. And if the rent or remuneration is payable entirely in kind and money-value thereof is not expressed, a fixed registration fee of Rs 2 will be charged.

In supersession of the Home Department Notification No 2104, dated the 30th Sept 1904, and in exercise of the powers conferred by sub-section (1), clause (c), and sub-section (2) of section 25 of the Co-operative Credit Societies Act, 1904 (X of 1904), the Governor-General in Council is pleased to remit all fees payable under the law of registration for the time being in force in respect of instruments executed by or on behalf of any Co-operative Credit Society for the time being registered under that Act, or by an officer or member of such a society and relating to the business thereof. Provided that the local Government may at any time withdraw such exemption in the case of any society.—*Notn. No. 11434, B. G. G., 1908, Pt. I, p. 1953 (re-producing I. G. Notn. No. 2520, H. D., dated 6th November 1908).*

ACT XVI OF 1908 (INDIAN REGISTRATION).**Government of Bombay.**

No. 2129, dated 4-3-1913, Bombay Government Gazette, dated 6-3-1913, Part I, pp. 374, 375.

In accordance with the provisions of section 69 of the Indian Registration Act, 1908 (XVI of 1908), the Governor in Council is pleased in modification of Government Notification in the Revenue Department No. 3383, dated the 3rd April 1911, to approve, with effect from 1st April 1913, the following further amendment in the Rules of the Registration Department framed by the Inspector-General of Registration, Bombay Presidency, under the said Act:—

For Rule 20 the following rule shall be substituted, namely:—

"20. Every Registering Officer shall keep a Minute Book in the form of Appendix M and shall enter therein, with his own hand, a short note of every case of suspension of the ordinary procedure of acceptance for and admission to registration and shall also record therein notes of such other proceedings or cases as may from time to time be prescribed by the Inspector-General of Registration. Every such note shall be signed and dated by such officer: Provided that in a Registrar's office, the Registrar may delegate to his Registration Clerk the duty of writing such notes, but shall sign the same himself.

Illustrations.

Where a document is impounded for insufficiency of stamp duty, where registration is postponed pending the receipt of sanction to the levy of a fine, where the Registrar orders registration under sections 72—75 of the Act, and where registration is refused a note shall be entered by the Registering officer in the Minute Book.

No. 557, dated 21-1-1913, Bombay Government Gazette, dated 23-1-1913, Part I, p. 144.

In exercise of the powers conferred by section 78 of the Indian Registration Act, 1908 (XVI of 1908), and with the approval of the Governor-General in Council, the Governor in Council is pleased further to amend the table of fees payable under the said Act, published in Government Notification in the Revenue Department, No. 3393-A, dated the 3rd April 1911, as follows, namely:—

For Article XVI of the said table, the following shall be substituted:—

"XVI—Attendance at a private residence or jail:—

- | | |
|--|-----|
| | Rs. |
| • (1) For every attendance at a private residence under sections 31, 33 and 38 ... | 10 |
| (2) For every attendance at a jail under sections 31, 33 and 38 ... | 5 |
- One single fee shall be levied irrespective of the number of documents of which business is transacted, provided that a person, who is entitled to exemption from attending the registration office, was a party to each such document.

Notes 1.—The Inspector-General of Registration may in his discretion remit the fees (1) and (2) when it appears to him that their exaction would be productive of hardship.

Notes 2.—For every attendance at a private residence of a nurse or female assistant, if required, to accompany a registering officer to take the thumb impression of one or more female executants who are *pardanashin* or of high birth, an extra fee of Rs. 5 shall be charged irrespective of the number of documents registered at such private residence."

APPENDIX V.*Rules, Notifications of other Governments.***ACT XVI OF 1908 (INDIAN REGISTRATION).
Resident in Mysore.**

No. 2, dated 8-1-1913, Gazette of India, dated 15-2-1913, Part II, pp. 269, 233.

In supersession of the late Chief Commissioner's Notifications No. 202, dated the 14th August 1871, and No. 233, dated the 18th October, 1877, the following revised rules prepared under the provisions of section of the Indian Registration Act, 1908 (XVI of 1908), as in force in the Civil and Military Station of Bangalore, and approved by the Hon'ble the Resident in Mysore, are hereby published for general information.

These rules shall take effect from the 1st February 1913.

Rules under section 69 of the Indian Registration Act, 1908, as in force in the Civil and Military Station of Bangalore.

PART 1.

GENERAL RULES.

Languages. Section 19.

1. (1) Kanarese, Tamil and English shall be deemed to be commonly used in the Civil and Military Station of Bangalore.

(2) The stamp vendor's endorsement on a document shall be considered to be a part of the document and, if it is in a language not understood by the registering officer, the party concerned shall be required to file a translation.

(3) When a power-of-attorney is presented for attestation or when an attested power-of-attorney is produced by an agent with, or in connection with, a document presented for registration and the power-of-attorney is written in a language not commonly used in the Civil and Military Station at Bangalore, the registering officer may, if he does not understand the language, demand of the presentant a true translation of the power in English or in a language commonly used in the Civil and Military Station of Bangalore.

(4) The translation shall be certified to be a true translation and shall be signed by the presentant.

(5) No fee is leviable for filing a translation in cases falling under this rule :—

2. The term "territorial division" in the Indian Registration Act, XVI of 1908, as in force in the Civil and Military Station of Bangalore, shall mean the Civil and Military Station of Bangalore and shall, as far as practicable, include the town, village, hamlet, suburb or other well-known division in which the property referred to in a registrable document is situated. But if the property is described in the document relating thereto by a specific reference to a registered instrument, in which the above particulars and sufficient description of the property are already given, they need not be repeated.

Fines for delays in presentation and appearance. Sections 25 and 34.

When the delay does not exceed one week after the expiration of the time allowed for presentation or appearance.

When the delay exceeds one week but does not exceed one calendar month.

When the delay exceeds one month but does not exceed two months.

When the delay exceeds two months but does not exceed four months.

Time.

3. The fines for delays in presentation and appearance under sections 25 and 34 shall be regulated as follows :—

A fine equal to the proper registration fee.

A fine equal to twice the proper registration fee.

A fine equal to five times the proper registration fee.

A fine equal to ten times the proper registration fee.

Presentation.

4. All parties bringing documents for registration shall take them with the fees payable direct to the registering officer and not to one of his clerks or peons. If there is any informality attendant on this presentation of a nature which can be remedied, the registering officer shall give the parties such information as may be necessary and return the fees and the document with a view to its being presented again in due form. If, for instance, the document is presented in the wrong office, he will inform them where they should go. If the parties have come without the prescribed fee, if an agent has come without a power-of-attorney or without such a power as the Act requires, if the description of the property is insufficient to identify the same, if the document is one which ought to be accompanied by a translation and copy, or if it contains a map of which copy is required for filing in the file book, or if there are interlineations, alterations, erasures or blanks which are not attested, the registering officer will explain what is wanted. If, however, there are none of these obstacles to the reception of the document, or if the document is presented again after these objections have been removed, he shall at once endorse on

it the date, hour and place of presentation and take the signature of the presenting party to such endorsement. He shall also examine the date of the document. If the prescribed period is passed, but the document is still admissible on payment of a fine, he shall, if he is a Sub-Registrar, suspend its registration, pending a reference to the Registrar. If the document is one chargeable with duty under the Indian Stamp Act, II of 1899, as in force in the Civil and Military Station of Bangalore, and is not duly stamped, it must be impounded under section 33 thereof and dealt with as required by section 38, sub-section (2) registration being suspended. Prior to sending it to the Collector, however, the registering officer shall be at liberty to record the admission of the executant and the examination of his witness, if any, in cases in which the document may be presented by the executant himself or in which he may be present at the office at the time of its presentation. If the document is one dutiable under the Court Fees Act, VII of 1870, and is unstamped or is insufficiently stamped, it should be simply returned to the party presenting it (*vide* section 6 of the Act), in order that the stamp duty or the deficiency in the stamp duty may be made good.

5. If the executant of a deed who is in doubt about the proper stamp consults a registering officer on the subject before formal presentation, the required information may be given to him without impounding the deed. It will be explained to the executant at the same time that if he wishes to obtain an authoritative opinion, he must apply to the Collector under section 31 of the Indian Stamp Act, II of 1899, as in force in the Civil and Military Station of Bangalore.

6. Any person who becomes surety for the repayment of a loan or the fulfilment of a contract and in that capacity affixes his signature to a document ;

Any person who endorses a negotiable document ;

And any person who signs a receipt or discharge endorsed on a document, shall be held to be an executing party.

In the case of documents purporting to be executed by an attorney, such attorney shall be held to be the executing party for the purpose of sections 32, 34, 35 and 58 but for the purposes of section 55, the principal and attorney shall be considered to be executing parties.

7. The identity of the parties appearing before the registering officer, should, if possible, be proved by the testimony of persons who are personally known to himself, or when this is not procurable, by the most trustworthy evidence which may be available. The attesting witnesses to a document need not necessarily be examined at all, as what is ordinarily required is not proof of execution but proof of identity. It may often be inconvenient to such persons to come in from their villages and they may, after all, be strangers or obscure persons with whose testimony the registering officer ought not to be satisfied.

8. The impression of the left thumb of the executant or executants of documents to be registered shall be taken in printer's ink off a flat piece of tin, copper or glass properly prepared for the purpose, and transferred both to the documents and to a blank register kept in the Registration Office. Against each impression in this register, the name of the party the number of the deed in Books I, III, IV or V and the date shall be entered. The registering officer may require every executant and identifying witness who is not personally known to himself to affix such an impression both to the deed and the register in his presence whether he can write his name or not.

9. The term "representative" as used in the Indian Registration Act, 1908, as in force in the Civil and Military Station of Bangalore, includes not only the guardian of a minor and the committee or other legal curator of a lunatic or idiot but also the executor, administrators and heirs of deceased person. Satisfactory proof of the right of any person to appear in any of these capacities must be adduced before he is permitted to admit or deny execution of any document presented for registration.

10. It shall form no part of the registering officer's duty to enquire into the validity of the documents brought to him for registration or to attend to any written or verbal protest against the registration of a document, based on the ground that the executing party had no

right to execute the document tendered for registration. But registration may be objected to on any of the following grounds:—

- (a) That the parties appearing or about to appear before the registering officer are not the persons they profess to be.
- (b) That the document is forged.
- (c) That the person appearing as a representative, assign or agent has no right to appear in that capacity.
- (d) That the executing party is not really dead, as alleged by the party applying for registration.
- (e) That the executing party is a minor, an idiot or a lunatic.

Enquiry to be generally public. Section 24.

11. As a general rule, registration shall take place in public, but the registering officer may, on the application of the parties, and if he shall think proper, exclude the public during the course of any enquiry.

Enquiry relating to documents executed by persons unable to read or understand the language used. Section 24.

12. Documents executed by persons who are unable to read shall be read out, and, if necessary, explain to the parties. Documents written in a language not understood by the executing party, shall, in like manner, be interpreted to him.

Enforcement of appearance.

13. Any person requiring a summons to be issued under section 36 shall deposit the process or peon's fee payable in such cases, as well as the amount of expenses to be paid to the person summoned. The sum so deposited shall be remitted by the registering officer to the District Judge, Civil and Military Station of Bangalore. If the person, without lawful excuse, fails to comply with the summons, the registering officer shall report the fact to the District Judge, Civil and Military Station of Bangalore, in view to steps being taken to enforce the attendance taken of such person under Order XVI, rules 10 to 13 and 17 and 18 of the Code of Civil Procedure.

Receipts for documents and for fees. Sections 52 and 51.

14. (i) A receipt shall be granted for each document presented for registration, for each power-of-attorney presented for attestation and for each sealed cover deposited and for every fee or fine levied by a registering officer.

An application for transfer of revenue registry presented with a document shall be acknowledged in the receipt for the document.

(ii) When the fees consist of several items, each item shall be separately entered both in the receipt and in the counterfoil so as to admit of any overcharge being traced. In the case of copying fees, the number of works shall be entered and, in the case of mileage, the number of miles.

(iii) The requisite entries shall be made both in the counterfoil and in the receipt, which shall be respectively initialled and signed by the registering officer.

(iv) The receipt for a document shall be handed to the person presenting the document or to his nominee, after obtaining in the counterfoil the signature of the presentant to the endorsement of nomination, and also the signature of the nominee if he can write, for the purpose of comparison when the nominee appears to take back the document.

(v) A separate receipt shall be given for each document even when two or more documents are presented simultaneously by the same person.

(vi) If a document is ready for transcription on the day of its presentation, the day and hour when it will be ready for return shall be endorsed on the receipt. In the case of a document retained pending an enquiry or a reference, the day and hour of return shall be communicated to the presentant or his nominee by a separate notice issued on the day when the document becomes ready for transcription. If, however, in the latter case the receipt is produced on the day when the document is ready for transcription and the document cannot be returned on that day, the information may be endorsed on the receipt itself. When a document is not ready for return on the date entered on the receipt or in the notice, the entry of the date shall, if the receipt or notice is produced before the registering officer, be cancelled and the probable latter date on which the document will be ready shall be entered under the initials of the registering officer. Corresponding entries and corrections shall be made in the counterfoil.

(vii) A document shall, if possible, be returned on the date of its admission to registration.

(viii) In order to obtain delivery of a document the person entitled to claim back the same shall produce the receipt, and the registering officer shall thereupon obtain his signature to the acknowledgment in a counterfoil and return both the document and the receipt after endorsing on the latter the date of its return and initialling this entry. A person entitled to claim back a document who is known to the registering officer may obtain return of a document by sending the receipt to the registering officer through a messenger with a requisition endorsed on the receipt and signed by himself for the delivery of the document to the messenger. The document may then be handed over to the messenger after his acknowledgment and thumb impression have been taken in the counterfoil of the receipt, the receipt being retained in the office and pasted to the counterfoil.

(ix) In the event of a receipt being lost, the person who should have produced it may receive the document on making and signing on the counterfoil a declaration of the loss and, if required by the registering officer, affixing his thumb impression thereto.

(x) When a nominee fails to take back a document within seven days from the date noted on the receipt as that on which it will be ready for delivery, the nomination may be revoked by the person by whom it was made, by an entry signed by him to that effect in the counterfoil and he shall in that case receive the document himself.

When a party to a document objects to its being returned to a person in whose favour the receipt has been drawn up, the objection shall not be allowed to prevail, unless such party can satisfy the registering officer, that he has applied to a competent court for an injunction to restrain the registering officer from returning the document.

(xi) When an impounded document is received back from the Collector after adjudication of stamp duty, the registering officer shall immediately give notice in writing to the presentant or to the person authorised to take delivery of the document either to take steps to complete the registration of the document or to take delivery of the document.

(xii) When proceeding to attend at a private residence the receipt book shall not be taken by the registering officer, but the requisite receipt may be detached from the counterfoil for issue to the party concerned, the entries in the counterfoil being made after return of the registering officer to his office. In such a case any nomination to take delivery of a document shall be obtained on a slip which shall be initialled and dated by the registering officer and pasted on to the counterfoil.

(xiii) Clauses (iv) to (xii) of the rule do not contemplate the return of a document by post but a document may be so returned if a presentant desires this course to be followed and at his own risk, subject to the following conditions:—

- (a) The presentant shall sign an endorsement on the counterfoil of the receipt authorising the return of the document by registered post and address to be specified and shall deposit with the registering officer a suitable envelope on which shall be superscribed the address and to which the postage stamps are affixed sufficient to cover the registration fee, the postage and the fee for obtaining the acknowledgment of the addressee.
- (b) The registering officer shall secure the envelope after causing the requisite entries to be made in a register maintained for the purpose.
- (c) When the registration of the document has been completed, the registering officer shall enclose the document in the envelope and post it and shall note the fact on the counterfoil.
- (d) The acknowledgment of the addressee shall, on receipt, be pasted to the counterfoil.
- (e) At each stage the corresponding entries shall be made in the register referred to in sub-clause (b).

15. The fee for a search shall entitle the applicant to read the entry for the finding of which the fee has been paid, or to have it read to him, but it

Searches. Section 57.

shall not entitle him to take a copy of the entry. If a search should prove fruitless, the fee shall not be refunded, but the applicant shall, if he wishes it, receive a certificate stating that the entry sought for has not been found in the books.

16. In a certified copy every figure shall count as a word. If initials or abbreviations are used instead of words, every initial or abbreviation shall count as a word. Thus "A. D. 185." will be equivalent to six words: "Bounded on the N. E." to three words; and "A. R. Thompson" to three words.

Certified copies. Section 57.

Searches by Government officers. Section 57.

17 Government officers who may require to search to registers or to take copies of entries for *bond fide* public purposes shall be permitted to do so without payment of any fee.

18. In complying with any requisition made by a Court which involves a search or the preparation of a copy of any document, the registering officer shall forward to such Court a memorandum of the fees payable on that account, in view to the amount of such fees being remitted by the Court to the registering officer. In like manner, when a registering officer receives a summons to produce any register books in Court, he shall apply to the Court issuing the summons for the payment of the travelling and other expenses to be defrayed by him, or by any of his clerks, in passing to and from the Court.

19. The office of the Sub-Registrar shall be open for six hours daily, Sundays and holidays excepted. The usual hours shall be from 11 A.M. to 5 P.M., and if it be found necessary to change these hours a notice to that effect shall, with the approval of the Inspector-General, be affixed in the office for the information of the public.

Any registration office may be open, if necessary, for more than six hours.

Residence of Registering Officers.

20. A notice showing where the registering officer lives must be affixed outside every office.

Holidays. Section 69.

21. The same holidays shall be allowed in Registration offices as in all other Government offices.

22. All unclaimed documents, other than wills, may be destroyed with the sanction of the Inspector-General, when the period allowed, *viz.*, two years, has been exceeded, unless the officer in whose custody they are should see some special reason for keeping them. In the event of a registered instrument being destroyed, a note showing the date on which it was destroyed shall be entered in the page of the volume in which it has been copied. In the event of the instrument being one of which registration has been refused, a similar entry shall be made in the page of Book II containing the order of refusal. Lists of documents lying unclaimed shall be hung up in every Registration office, and shall from time to time be published in the local Gazette. Notice shall also be given by letter, service bearing, addressed to the persons entitled to receive the documents lying unclaimed.

23. When registration is refused because the document has been presented in the wrong office or in an office in which the acceptance of the document is left to the discretion of the Registrar, no order of refusal shall be entered in Book II. In all other cases the reason, or if there is more than one reason, all the reasons for refusal shall be at once recorded. They will usually come under one or more of the following heads:—

I. That the document is written in a language which the registering officer does not understand and which is not commonly used in the Station, and that it is unaccompanied by a true translation and a true copy.

Section 19.

II. That it contains unattested interlineations, blanks, erasures or alterations.

Section 20.

III. That the description of the property is insufficient to identify it.

Section 21 (1) (3) and Section 22.

IV. That the document is unaccompanied by copy or copies of any map or plan which it contains.

Section 21 (3).

V. That it is presented after the prescribed time.

Sections 23, 24, 25, 72, 75 and 77.

VI. That it is presented by a person who has no right to present it.

Sections 22, 23, 40 and 43.

VII. That the executing parties or their representatives assigns or agents have failed to appear within the prescribed time.

Section 24.

VIII. That the registering officer is not satisfied as to the identity of any person appearing before him, and alleging that he has executed the document.

Sections 24 and 42.

IX. That the registering officer is not satisfied as to the right of any person appearing as a representative, assign or agent so to appear.

Sections 24 and 40.

Section 35.

X. That execution is denied by any person purporting to be an executing party or by his agent.

tion 35.

XI. That the person purporting to have executed the document is a minor, an idiot, or a lunatic.

Section 35.

XII. That execution is denied by the representative or assign of any deceased person by whom the document purports to have been executed.

Sections 35 and 41.

XIII. That the alleged death of any person by whom the document purports to have been executed has not been proved.

Section 41.

XIV. That the registering officer is not satisfied as to the fact of execution, in the case of any will or authority to adopt, presented after the death of the testator or donor.

Section 42.

XV. That a cover containing a will is not sealed, or is not superscribed with the name of the testator and that of his agent (if any), and the nature of the document.

Sections 30, 25 and 24.

XVI. That the prescribed fees or fines have not been paid.

24. The Sub-Registrar is not authorized by law to refuse to register a document

Registration of documents in which Sub-Registrar is interested. Section 30 (1).

which has been executed by himself or in his own favour or because he is a party interested remotely or indirectly, in the transaction to which such document relates; nor is he authorized to refuse to authenticate powers-of-attorney granted for the registration of such documents; but he will always recommend the parties to present such document or power-of-attorney to the Registrar, who will, as provided in the table of fees, register such document without charging the usual extra-fee. If the parties, after being recommended as above, insist on the Sub-Registrar registering a document which he is interested, he must register it. In this case, he will immediately report the fact for the information of the Registrar.

FEES AND FINES.

25. It is for the registering officer, who is responsible for levying the fee, to determine in the first instance what fee should be paid. After it has

Sections 78, 70 and 80.

been paid, the presenting party may, if he is dissatisfied, refer the question to the Registrar who shall, if he thinks there has been an overcharge, order the Sub-Registrar to refund any excess. If the decision is adverse to the party, he may make a further reference to the Inspector-General.

26. (i) In the event of registration being refused, any fee or fine which may have been levied shall be refunded except fees for commissions, summonses, attendances and travelling allowances where such fees and allowances have been earned.

(ii) Every application for the remission of a fine or fee shall be lodged in the first instance with the registering officer who levied it, for submission to the sanctioning authority through the proper channel.

(iii) The Registrar may himself dispose of applications for the refund of fees or fines collected in excess or for work not performed by the department.

27. (i) Whether a document is admitted to registration or not, all fees or fines shall be at once brought to account and the collection shall be remitted to the Honourable the Resident's Treasury whenever they reach Rs. 100 and always on the last working day of the month.

(ii) A remittance to the treasury shall be accompanied by the challan book, duly filled up in duplicate, in view to one copy of each challan being returned signed by the treasury officer.

28. (i) A separate attestation fee shall be levied on every signature requiring authentication in a power-of-attorney executed by several persons provided that only one attestation fee shall be levied when a person executes a power-of-attorney both for himself and as guardian or agent of one or more other persons.

(ii) The duplicate or triplicate of the power-of-attorney presented for authentication shall be treated as a separate power and a separate attestation fee levied thereon.

29. If the Registering officer is required to attend at the same time and place for the purpose of attesting several signatures to a joint power-of-attorney, or of attesting several powers-of-attorney, executed by one person, only one attendance fee shall be levied.

Fees for attending at private residence. Sections 78, 79 and 80.

30. Documents executed by a Government officer or by any one of the public

Documents executed by Government officers and other public functionaries. Section 88.

functionaries named in section 88, as well as documents executed on the one part by such Government officer or public functionary and on the other part by any other person, shall not be admitted to registration unless they are presented unless they are presented at the proper Registration office by such other person or by a person claiming under the same or by the agent, representative or assign of any of these persons, respectively, or unless they are forwarded for registration by the Government officer or public functionary executing the same.

PART II.

DEPARTMENTAL RULES.

31. The seal shall always remain in the personal custody of the registering officer.

Seals. Section 75.

Care shall be taken to produce a distinct and legible impression with it, and for this purpose the pad and printing ink supplied for the purpose shall be used. The seal shall be used in authenticating :—

- (a) The certificate endorsed on a registered instrument under section 60.
- (b) Powers-of-attorney attested by a Registrar or Sub-Registrar under section 33.
- (c) Commissions issued under sections 33 and 38.
- (d) Certified copies of entries under section 57.
- (e) Copies of orders of refusal to register, granted under sections 71 and 76.
- (f) Copies granted to parties, of entries other than those above referred to.
- (g) Certificates granted to applicants as regards registered transactions affecting immoveable property.

If a Registering officer should find himself temporarily unprovided with the prescribed seal, registration shall nevertheless go on as usual, and such document, as may be admitted to registration shall remain in the registering officer's custody until the seal can be affixed to the certificate.

32. The registers shall be prepared in the forms hereunto appended. Books I and

Forms, Paging, etc., of registers. Sections 16 and 51.

IV shall ordinarily contain 500 pages each; in other cases the Inspector-General shall certify the number of pages. Where necessary more than one volume may be used simultaneously for the registration of the documents, and the order in which documents shall be entered in each volume shall be determined by the registering officer with reference to such general instructions as may be given by the Inspector-General from time to time. Books II, III and V shall contain 120 pages each, except in cases where the Inspector-General certifies the number of pages. A file book shall also be supplied, corresponding with Book I and similarly paged. In it shall be filed all true copies and translations of documents received under sections 19 and 62, all copies of maps and plans mentioned in section 21 and copies of certificates received under section 89. This volume shall have a number assigned, to it in the general series of Book I, as soon as it is brought into use and when complete, it shall, if necessary, be bound.

33. Books for registers and indexes will be supplied for the use of the Registrar

Supply of books and forms. Section 16.

and Sub-Registrar from the Office of the Inspector-General, by whom the number of pages contained in each book will be certified on the fly leaf. Every Registrar and Sub-Registrar shall, at all times, have a reserve supply consisting of one additional copy of each book, except register Nos. II, III, and V, and will submit timely indents for further supplies. Every blank book shall be carefully examined by the registering officer on receipt, and if found incomplete it shall at once be returned to the officer from whom received, with a memorandum stating in what particulars it is defective. No officer should ever be unprovided with the requisite registers, but, if owing to any unavoidable accident, such a contingency should arise, instruments tendered for registration shall, nevertheless, be received as usual, the necessary inquiries shall be held, and the prescribed endorsements shall be made. But as the certificate cannot be added until the instrument is copied into the register, the instrument must remain in the registering officer's custody until the process of registration has been completed.

34. Notes of interlineations, erasures or alterations in documents or in endorse-

Notes of interlineations, erasures or alterations. Section 20.

ments thereon must be so prepared as to show precisely what word or words have been interlined, erased or altered. In the majority of cases, the simplest plan will be to underscore the particular word or words and to write the letters a, b, c, d, above with corresponding footnotes, preceded by the expression "in document," interlineations, etc.

(a) interlineation (or erasure, etc).

35. If a word in the original is misspelt, or if a word is by mistake repeated, or if some word necessary to complete the sense is omitted, the error or omission may be indicated by underscoring the word or words in which it occurs and by writing a letter or figure above, with a corresponding footnote,—

(a) *Sic*,

but no attempt shall be made to correct the error or supply the omission.

36. Sometimes a space is left in a document for a name, date or word which is never filled up. In such cases a letter or figure may be entered in the blank space with a corresponding footnote,—

(a) Blank.

37. Notes, similar to those mentioned in Rules 34 to 36, should be made also in regard to interlineations, erasures, alterations, etc., made in the copies of documents entered in the registers. The particular word or words interlined, erased, altered, etc., in the copy should be bracketted in black ink and the figures (1), (2), (3), (4), entered above them with corresponding footnotes, preceded by the expression, "in register, interlineations, etc."

38. In all cases of re-registration under section 24 and of registration ordered under sections 72, 75 and 77, the document shall be copied in the register in the column headed "copy of document" and the endorsement and certificate and registration as well as the endorsements of previous presentation and refusal, and certificate of registration shall be transcribed in the column of endorsement, so as to show in chronological order the several stages of procedure gone through in regard to it.

39. If a registering officer acts under section 31, he must go in person, provided that it does not interfere with the regular business of the office. The Sub-Registrar shall report every such attendance to the Registrar, who shall satisfy himself that the special cause assigned was a sufficient cause, and that the Sub-Registrar's absence from his office was not longer than was necessary.

40. (a) If a power-of-attorney is executed before a registering officer, he shall, after satisfying himself of the identity of the party appearing, authenticate it in the following form :—

Executed in my presence this day of 19 , by A. B., who is personally known to me, or whose identity is proved by C. D., (addition), and E. F. (addition).

Seal.

Signature.

(b) If the power-of-attorney has not been executed before the registering officer, but has been ascertained to have been voluntarily executed in the manner prescribed in section 33, the form of authentication shall be as follows :—

I certify that I have satisfied myself that this power-of-attorney has been voluntarily executed by the person purporting to be the principal.

Seal.

Date.

Signature.

(c) If a document is presented for registration under a special power-of-attorney, the power shall be retained and filed in the office with the following endorsement :—

No. of 19 ,
Presented with document No. of 19 ,
of Book , Vol.

Date.

A.B.,
Sub-Registrar.

(d) If a document is presented for registration under a general power-of-attorney, the power shall be returned with the following endorsement :—

Presented with document No. of 19 , of Book , Vol. .

Date.

A.B.,
Sub-Registrar.

(e) If the execution of a document, presented for registration by the claimant thereunder, is admitted by an agent under a power-of-attorney, the following endorsement

shall be made on the power which will be retained and filed or returned according as it is a special or general power :—

Presented in connection with document No. _____ of 19 _____, of Book _____, Vol. _____
A.B.,
Sub-Registrar.

Date.

(f) Although a power-of-attorney may be registered like any other instrument, it is not valid for registration purposes unless attested. When powers-of-attorney are brought to a Registration office by persons who do not understand the distinction between attestation and registration it will be the duty of the registering officer to explain the difference and to give such information as may be necessary to prevent the parties from being subjected to unnecessary expense by the registration of power which need only to be attested.

(g) All special powers-of-attorney filed shall either be pasted in successive order into a book or bound up together, when sufficient in number to constitute a volume.

41. Abstracts should be retained in every Registration office of all powers-of-attorney attested by registering officers under section 33, whether such powers are general or special, registered or not registered.

42. All interlineations, blanks, erasures or alterations in powers-of-attorney authenticated under section 33, should, at the time of authentication, be detailed in a foot-note signed by the registering officer. When there are no interlineations, etc, the fact should be noted in the same way. This foot-note will be copied in every case in the abstract kept under rule 41.

Persons exempt from personal attendance. Sections 33 and 38.

43. Persons exempt by law from personal attendance in Court are, under sections 182 and 133 of the Civil Procedure Code, Act V of 1908 :—

- (a) Gosha woman, or women who according to the customs and manners of the country ought not to be compelled to appear in public.
- (b) Persons of rank specially exempted by Government.

A list of persons so exempted shall be obtained from the Resident's Court by the Registrar, and communicated to the Sub-Registrar.

44. Commissions issued under section 33 and section 38 shall be prepared in the form hereunto appended and shall ordinarily be addressed by the registering officer to one of his clerks—vide also sections 76 and 77 and Order XXVI rules 1—8 of the Civil Procedure Code.

(a) When the commission has been executed, the Commissioner shall return the document to the office from which it was issued with a report, which shall be endorsed on the document, in the following terms :—

“Having visited the residence of A. B, son of C. D., at _____ I have this day examined the said A. B, who has been identified to my satisfaction by E. F., son of G. H., etc., residents of _____ and the said A. B, admitted (or denied) the execution of this document.”

Thumb impression.

Full Signature of Executants
Do. of Witnesses.
Do. of Commissioner.

(i) Where receipt of consideration is acknowledged before the Commissioner, he shall add the following clauses to his above report :—

“And acknowledged receipt of Rs. _____ (or goods to be specified) being consideration in whole (or in part).”

(ii) Where consideration is paid in the presence of the Commissioner, he shall add the following to his report :—

“I also certify that Rs. _____ (or goods to be specified) were paid (or delivered) in my presence to the said A. B, by.....”

The signature of the payer also should be taken below this report, as provided in the specimen form of endorsement in Appendix II B. and C.

On receiving the Commissioner's report, the registering officer shall, if satisfied as to the execution, make the following endorsement below it :—

"From the above report, I am satisfied that this document has been voluntarily executed by the said A. B."

Date

Q. R.,
Registrar.

In the case (i) and (ii) referred to above, the registering officer shall add to his endorsement the following :—

"For consideration of Rs. _____ acknowledged to have been received
by him (or for consideration of Rs. _____ paid to him by
in the presence of the Commissioner)."

Sections 33 and 35 of the manner as a registering officer, and persons refusing to give testimony to a Commissioner on being required to do so shall be subject to the penalties and punishments which they would incur for the same offence if committed in a registration office.

(c) It shall be competent to a registering officer to examine the Commissioner personally in his office touching any of the circumstances connected with the discharge of his commission, especially with reference to the voluntary nature of the admission of execution.

45. Every entry made in Book V under section 43, shall be dated and signed by the Registrar. When a sealed cover is withdrawn under section 44, the entry relating thereto, made in Book V, shall be signed by the person by whom the withdrawal is made as well as by the Registrar.

46. When a sealed cover containing a will is opened under section 45 the following endorsement shall be made on the will ;—

"Having satisfied myself that the testator hereof is dead, the sealed cover containing this will is opened on the application and in the presence of (name and address) this day of 19 ____."

"This will has been registered in Book III as No. _____ of 19 ____, volume _____
pages _____
Date _____ Seal. _____
A. B.,
Registrar.

47. When a sealed cover is opened under an order of a Civil Court under section 46, the fact shall be noted in Book V in the column headed number of document in Book III and the following endorsement made on the will itself :—

"Opened and registered in Book III as No. _____ of 19 ____, volume _____
page _____, and removed into Court pursuant to order of Court, dated _____
Date. _____ Seal. _____
A. B.,
Registrar.

48. The registers shall be maintained in accordance with such instructions as the Inspector-General of Registration may from time to time prescribe, provided that no erasures shall be permitted and that every page shall contain a uniform number of lines.

49. When two or more copies of the same document are brought for registration simultaneously it shall not be necessary to enter the document more than once in the register, but all the endorsements shall be written upon each copy.

50. Book I shall be so prepared as to admit as far as possible of the various conveyances, mortgages, leases, etc., of any property entered in it being traced back in successive order through the different volumes in which they appear. When therefore a document is admitted to registration, the registering officer shall ascertain from the parties the number or date of the last registration affecting the property to which it relates, and if the registration can be traced either by the production of the last instrument registered or by the number or date given by the parties, a note shall be entered in the register referring to the number, page, and volume of this last previous

registration. The information given should be verified, if necessary, by a reference to the records of the office, free of charge.

51. After a document and the endorsement and certificate on it have been copied into the register, the registering officer shall personally ascertain the correctness of the copy and of the notes of interlineations, etc., by having the original read aloud to him by some person other than the copyist, while he has the register before him. He shall initial every page and affix signature at the foot of the copy of the instrument, before the original instrument is returned to the party. He shall also initial all corrections, interlineations and erasures. In the event of the registering officer being prevented by pressure of business or any other cause from personally comparing the original with the copy in the register, he may delegate this duty to one of his clerks. Both the copyist and the examiner shall sign the record and enter the words "copied by" or "examined by." If a register is under any special circumstances closed before it is full, a certificate shall be entered at the foot of the last entry stating that the book ends there. If one or more pages are by oversight left blank in any part of a volume, a certificate to that effect shall be entered in each page so left. And no additional pages shall on any pretence be inserted in any volume.

52. When an instrument is executed in the form of an endorsement written across or at the foot or back of any previously registered document, as in the case of an assignment of a lease or the transfer of any other interest, or of a receipt or discharge acknowledging the receipt of consideration money or the receipt of any principal, interest, annuity or other periodical payment secured by the registered instrument, such endorsement shall, if presented for registration, be numbered, and registered as a separate instrument and a note shall be entered in the register showing that it was written across, or at the foot or back of such previously registered instrument. If the endorsement was made on an unregistered instrument, the instrument as well as the endorsement shall be copied in the register and a note entered below the certificate of registration and above the registering officer's signature to the effect that the endorsement alone was registered.

53. The endorsements prescribed in sections 52 and 58 and the certificate prescribed in section 60 shall be written in the registering officer's own hand in the form hereunto appended, or as near thereto as circumstances permit, unless he has been specially authorized by the Inspector-General to use endorsement stamps under rule 54. An executing party shall be required to use the same language in signing the endorsement which he has used in signing the instrument.

If there is not sufficient blank space in the instrument for the endorsements and certificate they may be entered on a covering slip or rider. In that case, a note to that effect shall be entered on the instrument itself and signed by the registering officer.

When a document occupies more than one sheet of paper, the number of the sheet, the number of the document of which the sheet forms a part, the seal and signature of the registering officer, shall be endorsed on every sheet.

54. The Inspector-General may specially authorize any registering officer to use stamps for making, on documents presented for registration, the endorsements and certificate prescribed by sections 52, 53 and 60. The stamps to be used must be obtained on indent from the Inspector-General's office and must be kept in the personal custody of the registering officer and be kept in a sealed bag when not in use. The endorsements must be impressed on the documents by the registering officer himself, and no one else may, on any account whatever, be allowed to handle them. The endorsements and certificate must be signed and the blank spaces therein must be filled in by the registering officer in his own hand and stamps may not be used for affixing signatures.

55. Indexes Nos. I, II, III and IV shall be prepared, lettered alphabetically, and shall contain the particulars shown in the forms hereunto appended. They may be prepared either in English or the Vernacular at the option of the registering officer, but no change shall be made in a language once adopted except at the beginning of a calendar year. If the indexes are kept in English, the transliteration of native names of persons and places shall be regulated by the transliteration tables hereunto appended, except in the case of names which have become stereotyped by long usage in a conventional form. All names shall be entered in full. Initials shall not be used. If a person is known under two names each shall

be separately indexed. All names of persons shall be indexed with reference to the initial letter of the surname or house-name, where such exists. When it does not exist, the indexing must be regulated by the initial letter of the person's name, his village name, or any other distinguishing name which he bears being entered afterwards if he is a Hindu, and if a Muhammadan any such prefixes as Syed, Mir, Shaik, Ghulam or such affixes as Beg, Khan, Shareef. If a native woman bears the house-name of her husband, father, etc., the indexing shall be with reference to the initial letter of the house-name, otherwise with reference to the initial letter of her own name. The names of companies, banks, etc., shall be entered under the initial letter of the first word of the name omitting "The" as "The Land Mortgage Bank of India" under L. All instruments to which Government is a party shall be indexed together under the letter G, one or more pages being specially set aside for these entries. English names if indexed in the vernacular shall be indexed as they would be written in the vernacular, as Wilson under V., Wright under R, Knox under N. The name of all persons executing documents shall be entered in one column and the names of all persons claiming under documents in another column. In indentures, deeds of partition, and similar instruments, the fact that the party claiming under the document, is also an executing party shall be indicated by writing the name across both these columns. In the case of instruments executed by, for, or in favour of Government, or a Company, Bank, Religious Society, Pagoda, etc., in the name of any person representing or acting on behalf of Government, or the Company, Bank, etc., shall be entered in the column headed Addition of Person. Index II shall also contain a reference in red ink to the last previous registration of any instrument affecting the same property if such previous registration be known.

In the case of a will or an authority to adopt, the names of the testator or the donor shall be entered in column 1, and of the executors or other persons appointed thereunder in column 2, followed by the words "Executor or Person appointed thereunder" in brackets.

56. A copy of Indexes, I, II, III and IV shall be prepared by the Sub-Registrar simultaneously with original, and sent to Registrar not later than the 15th of the following month, who shall ascertain that it is properly prepared and legibly written, and, if necessary, return any of the sheets for correction or explanation. If there are errors which he has power to rectify under section 68, he shall issue the necessary order. If there are errors which cannot be remedied, he shall nevertheless point them out in order that they may not be repeated. The Registrar shall then forward not later than the 15th of the next following month the Sub-Registrar's Index sheets in original to the Inspector-General's office for inspection and such further orders as may be deemed necessary, together with a copy of his instructions as also a copy of his own index entries for the past month, accompanied by a memorandum specifying the number of sheets belonging to each office. The indexes will after examination in the Inspector-General's office, be returned to the Registrar to be recorded in his office. When all the indexes of the Sub-Registrar have been examined and arranged in order, they shall be bound in volumes containing each about 500 pages. The set of volumes containing Index I shall be distinct from the set of volumes containing Index II. If an index is bound up in parts, the title page shall show which part and what letters the volume contains. If several sets of indexes are bound up in a single volume, each shall be preceded by a title page showing the number of the index, the year and the office to which it relates. The same particulars shall also be shown on a label affixed to the back of each volume.

57. If in any special case an oath appears necessary, it may be administered to Oaths. Sections 68. Christians, Jews and Parsees in the following forms:—

"The evidence which you shall give shall be the truth, the whole truth, and nothing but the truth. So help me God."

The following form of affirmation may be administered to Hindus and Muhammadans under the Indian Oaths Act:—

"I solemnly affirm in the presence of Almighty God that what I shall state shall be the truth, the whole truth, and nothing but the truth."

58. When execution is admitted and the endorsement is signed by the party admitting execution, and when witnesses are examined merely with reference to the identification of the parties appearing, the prescribed endorsement is itself a sufficient record. But a record of substance of statements shall be kept in the following cases:—

Record of substance of statements. Section 68.

- (a) When execution is denied.
- (b) When a person admitting execution refuses to sign the endorsement.
- (c) When any enquiry is held as to the death of a deceased executing party.
- (d) When any enquiry is held as to the right of any person to appear as the executor, administrator or heir of a deceased person or as the guardian of an infant or to the curator of a lunatic or idiot.

When any enquiry is held as to the age of any person appearing to be a minor or the sanity of any person appearing to be a lunatic or an idiot.

- (e) When any enquiry is held regarding the cause of presentation of documents or the appearance of parties after the prescribed period.
- (f) When any enquiry is held as to the addition of any person owing to the addition not appearing either in the document or in the endorsement.
- (h) When any enquiry is held under the second clause of section 41 as to the facts specified therein, in respect of a will or authority to adopt, presented for registration after the death of the testator or the donor as the case may be.
- (i) When any enquiry is held under section 74 as to the fact of the execution of a document.

(j) And generally in all cases in which a record may seem necessary.

All such notes, with, the exception of those under (h) and (i) which will be kept with the record of the enquiry, shall be recorded in a book, which shall be kept for that purpose in every registration office.

59. In the event of the Sub-Registrar failing to forward his returns of copies or indexes on the prescribed date or allowing any other arrears to accrue, the payment of pay to his office may be suspended.

Arrears of work. Sections 68 and 69.

60. In the event of any registering officer registering a document without collecting the prescribed fee or fine, he shall unless specially exempted by the Inspector-General be required to make good any amount which he may fail to recover from the parties.

Neglect in collecting fees or fines. Sections 68 and 69.

61. In the event of a document being inadvertently registered in a wrong book, the registration shall stand but the Registrar may direct that the document with endorsement and certificate thereon shall be copied into its appropriate register without further charge.

Registration in a wrong book. Section 68.

A certificate should be endorsed on the document below the former certificate to the following effect:—

"Registered again under rule 61 in Book I, Volume , pages .

62. The office of the Registrar and that of the Sub-Registrar shall be provided with one or more good almirahs, substantially made and fitted with locks. Except during office hours, all registers, indexes, documents and other records shall be locked up in these almirahs, and the key shall remain in the possession of the registering officer. No person shall be permitted to remove any of the registers from the office, and every precaution shall be taken to protect them from the ravages of white ants, accidents from fire and injury from damp.

Custody of books and other records. Section 69.

63. The key of the fire-proof safe in which sealed covers and wills which have been opened are deposited shall remain in the personal custody of the Registrar. Every officer assuming charge of a Registrar's office, either permanently or temporarily, shall compare the sealed covers and wills which have been opened with the entries in the Register of Deposits of Wills and Authorities to adopt, and shall report either that they all are correct, or that certain sealed covers or wills are missing.

Custody of sealed covers and wills which have been opened. Sections 16 and 69.

64. The following records may be destroyed after the expiration of three years from the period to which they relate.

- (1) Receipts for documents under sections 52 and 61.
- (2) Monthly returns and routine correspondence.

The sanction of the Inspector-General must be obtained for the destruction of all books or papers, and no books, papers or documents shall be destroyed either under this rule or under rule 22 without the sanction of the Inspector-General being obtained.

REGISTRATION ACT.

Book III.—Register of Wills and Authorities to adopt.

Number of the instrument.	Number in Book V.	Name and addition of testator or donor.	Names and additions of persons examined.	Copy of the instrument.	Copy of endorsements and certificate.
1	2	3	4	5	6

N.B.—The notes required to be made in Register's office under sections 45 and 46 of the Registration Act will be entered in column of "copy of endorsement and certificate."

Book IV.—Miscellaneous Register.

Number of instrument.	Date of the instrument.	Copy of the instrument.	Copy of endorsements and certificate.
1	2	3	4
		Value of stamp. } Rs. As. } Reference to back registration. } Book No. } Vol. P. No }	

Book V.—Register of Deposits of Wills.

1	Number.	
2	When presented.	Date.
		Hour.
3	Name and addition of testator.	
4	Whether presented in person or by Agent.	
5	Nature of instrument.	
6	Name and addition of agent, if any.	
7	Superscription on sealed cover.	
8	Inscription on the seal.	
9	Persons testifying to the identity of testator or agent.	Name, Addition.
10	Date of application to withdraw sealed cover.	
11	Name of applicant.	
12	Persons testifying to the identity of applicant.	Name, Addition.
13	Date of delivery of sealed cover to applicant and the signatures of the applicant and the registrar.	
14	Number of document in Book III.	

Nominal Index I to Book No. 1.

Name of		Addition.	Village or place where property is situated.	Volume.	First page of entry.	Number of document.
Executant.	Claimant.					

REGISTRATION ACT.

Descriptive Index II to Book No. I.

Village or place in which property is situated.	Nature and description of property.	VALUE OF STAMP		DATE OF			Nature and value of transaction.	NAMES OF ALL.		No. of		
		Rs.	As.	Execution.	Presentation.	Appearances of executant.		Executants.	Claimants under documents.	Volume.	1st page of entry.	Document.

Nominal Index III to Register Books III and V.

Name of person.	Addition of person.	NUMBER OF			Number of the instrument.	Under what letter indexed.
		Register.	Volume.	Page.		

Nominal Index IV to Book No. IV.

Name of person.	Addition of person.	Nature of instrument.	NUMBER OF				DATE OF.	
			Volume.	Page.	Instrument.	Instrument.	Presentation for registration.	Appearance of executants.

(Rule 14.) Receipt under section 53 of Act XVI of 1908, the Indian Registration Act.

Received from a document which will be registered as document No. in Register Book No. The document will be ready for return on

<i>Memo. of fees paid.</i>	Ra.	A.	P.
Registration fees
Fees for excess in words (No. of words)
Fines under section 25 or 34
Fees for attendance at private residence
Searching fees...
Copying fees (No. of words)
Total

BANGALORE :

Sub-Registrar.

191 .

Document returned on

Sub-Registrar.

ENDORSMENT.

(To be printed on back)

Nomination under section 61 of Act XVI of 1908 is authorised to receive the document

mentioned on the reverse.

Dated

Signature and thumb impression of the presenting party.

Signature and thumb impression of the nominee.

I acknowledge the receipt of the document registered as No. of Book No.

Dated

Signature of presenting party or member or messenger.

Receipt under section 53 of Act XVI of 1908, the Indian Registration Act.
Received from a document which will be registered as document No. in Register Book No. The document will be ready for return on

<i>Memo. of fees paid.</i>	Ra.	A.	P.
Registration fees
Fees for excess in words (No. of words)
Fines under section 25 or 34
Fees for attendance at private residence
Searching fees...
Copying fees (No. of words)
Total

BANGALORE :

Sub-Registrar.

191 .

Document returned on

Sub-Registrar.

APPENDIX II A.

MISCELLANEOUS.

Commission under section 38 (or under section 38).

To

X. Y.

Whereas the accompanying power-of-attorney (or document) dated the _____ and purporting to have been executed by A. B. has been presented for attestation (or registration) in this office, and whereas it is necessary that it should be ascertained whether it has been voluntarily executed by the person by whom it purports to have been executed, you are hereby directed to take the examination of _____ upon the interrogatories hereunto attached and to return this commission with the examination of the said to this office on or before the _____ day of _____ 19____.

Given under my hand and seal this _____ day of _____ 19____.
Seal.

Signature.

APPENDIX II B. & C.

ENDORSEMENTS AND CERTIFICATES UNDER SECTIONS 52, 58, 59, 60, 61 AND 62 OF THE
REGISTRATION ACT.

(i) (When the executant or claimant presents the document in person.)

Presented on the _____ at _____ in the office of the _____ (or at the private residence of A. B.) by the undersigned.

(Signed) A. B. (with addition).

The unde signed admits the execution, (and receipt of Rs. _____ being consideration in whole or in part) of this document.
Thumb impression. _____ (Signed) A. B. (with addition).

(ii) (When execution is admitted, but signature refused.)

A. B. (with addition) admits the execution of this document, but refuses to endorse it to that effect.

Registering Officer's signature.

(iii) (When the identity of the executant is known to the registering officer) .
The identity of the executant is known to the undersigned.

Sub Registrar.

(iv) (When the identity of the executant is unknown to the registering officer, but testified by witnesses.)

The executant (or his representative as the case may be) A. B. (with his addition in full) is well known to C. (with his additions) who certifies in my presence to the identity of the executant (or his representative) and signs this endorsement as identifying witness.

Signature of identifying witness in full.

Registering officer's signature.

(v) (When a witness has been examined for any other purpose under section 63, the substance of his evidence should be briefly noted in the margin of the register book with his signature and the following endorsement shall be made on the document.)

The undersigned person has been examined in reference to this document.

Signature and addition of witness.

(vi) (When consideration is acknowledged.)

A diamond ring delivered in my presence by A. B. and C. D., to E. J., and Rs 750 paid by E. J., to A. B. and C. D., who both admit having received the remaining Rs. 250 referred to in this document.

O. H. admits having received Rs. _____ named in this document.

being part (or whole) of the consideration

Registering officer's signature.

Date.

Form of Certificate.
 Registered as No. 106 of Book No. , volume pages to
 Date Fee paid Rs.
 Seal. Registering officer's signature.

(vii) (When the document is presented by a representative, assign or agent of executant or claimant with power to present for registration or to admit execution).

Presented on the _____
 at _____ in the office of the _____

_____ by the undersigned under a power-of-attorney produced, dated _____ and attested by _____ authorizing the undersigned, to (either present or to admit execution, as the case may be, on behalf of _____).

Signature and addition of representative, assign or agent. _____
 Sub-Registrar's signature.

The undersigned representative, assign or agent admits the execution of this document on behalf of _____ under a power-of-attorney dated _____ and authenticated by _____

Thumb impression.

Signature and addition of representative, agent or assign.

(viii) (When a document executed by A. B. and C. D., at different times, has been presented for re-registration under section 24).

Presented again on the _____ at _____ in the office of the _____
 for registration under section 24, by the undersigned C. D. _____
 Signature and addition of C. D.

(ix) (When a document is registered under an order of Court, under section 77. the first entry will be).

Presented on the _____
 at _____ in the office of the Sub-Registrar of _____
 by the undersigned under an order of the Civil Court of _____
 No. _____ of _____
 Signature of the Sub-Registrar.

LEGISLATIVE COUNCIL, BOMBAY.

Government of Bombay.

No. 235, dated 17-2-1913, Bombay Government Gazette, dated 20-2-1913, Part I, p. 251.

In exercise of the powers conferred by section 5 of the Indian Councils Act, 1909 (IX Edw. VII, cl. c. 4), the Governor in Council, with the previous sanction of the Governor-General in Council is pleased further to amend the rules for the discussion of the *Annual Financial Statement of Government* at meetings of the Legislative Council published in Government Notification in the Legal Department, No. 948, dated the 29th December 1909, as follows, namely :—

(i) After clause (8) of rule 1 of the said Rules, the following clause shall be inserted, namely :—

"(9) 'year' means the financial year from the 1st April to the 31st March."

(ii) In rule 27 of the said Rules for the words "one year," the words "twelve months" shall be substituted.

MAHI KANTHA AGENCY REGISTRATION RULES.

Government of Bombay.

No. 1871, dated 22-2-1913, Bombay Government Gazette, dated 6-3-1913, Part I, pp. 343—346.

The following rules for the registration of documents in the Mahi Kantha Agency are published for general information :—

Mahi Kantha Agency Registration Rules.

In exercise of the powers and jurisdiction delegated by the Government of India, Foreign Department, Notification No. 2859-I.A., dated the 19th June 1903, and all other powers enabling him in this behalf the Governor in Council is pleased in supersession of all previous rules and orders on the subject, to prescribe the following rules for the Registration of documents in the Mahi Kantha Agency.

1. These rules shall come into force from the 1st of April 1913 and shall be made applicable within the limits of all the Thana Circles, Managed Estates and Talukas. They shall also be applicable within the limits of all other Talukas directly administered by the Talukdars in which the Political Agent or his Assistants exercise residuary jurisdiction, but with regard to those documents only the value of which is beyond the ordinary civil jurisdiction of such Talukdars.

2. In these rules unless there is anything repugnant in the subject or context :—

- (1) "Immoveable property" includes land, buildings, hereditary allowances, rights to ways, lights, ferries, fisheries or any other benefit to arise out of land, and things attached to the earth, or permanently fastened to anything which is attached to the earth, but not standing timber, growing crops nor grass ;
- (2) "lease" includes a counterpart kabulyat, an undertaking to cultivate or occupy and an agreement to lease ;
- (3) "minor" means a person who according to the personal law to which he is subject, has not attained majority ;
- (4) "moveable property" includes standing timber, growing crops and grass, fruit upon and juice in trees, and property of every other description, except immoveable property ; and
- (5) "representative" includes the guardian of a minor and the committee or other legal curator of a lunatic or idiot.

3. The Assistant Political Agent and the two Deputy Assistant Political Agents shall be Registrars in the Mahi Kantha Agency up to their civil powers. The Thanadars will be Sub-Registrars up to their civil powers within their Thana Circles, and the Managers or Japtidars or jurisdictional Talukas shall be Sub-Registrars up to the civil powers of their respective managed Talukas subject to the control of their Sub-divisional Officers and Registrars. Similarly the Huzur Deputy Assistant Political Agent will be Registrar for the Civil Station of Sadra and for documents of a value beyond the civil jurisdiction of the jurisdictional Taluka or Talukas under his charge (Wasna being the only jurisdictional Taluka under his charge at present) and the States and Talukas under the direct charge of the Political Agent, and will register the same.

4. The following documents shall be registered :—

- (1) Instruments to gifts of immoveable property.
- (2) Other non-testamentary instruments which purport or operate to create, declare, assign, limit or extinguish whether in present or in future any right, title or interest whether vested or contingent of the value of Rs. 100 and upwards to or immoveable property.
- (3) Non-testamentary instruments which acknowledge the receipt or payment of any consideration on account of the creation, declaration, assignment, limitation or extinction of any such right, title or interest ; and
- (4) Leases of immoveable property from year to year or for any term exceeding one year or reserving a yearly rent.

5. Any of the undermentioned documents may be registered :—

- (1) Instruments which purport or operate to create, declare, assign, limit, or extinguish, whether in present or in future, any right, title or interest, whether vested or contingent, of a value less than Rs. 100 to or in immoveable property.
- (2) Instruments acknowledging receipt or payment of any consideration on account of the creation, declaration, assignment, limitation or extinction of any such right, title or interest.
- (3) Leases of immoveable property for any term not exceeding one year.
- (4) Awards relating to immoveable property.
- (5) Instruments which purport or operate to create, declare, assign, limit or extinguish any right, title to or in moveable property.
- (6) Acknowledgments, agreements, articles of partnership, assignments, awards, bills of exchange, bills of sale, bonds, composition deeds, contracts, grants,

instruments of dissolution of partnership, instruments of partition, power of attorney, promissory notes, releases, settlements, writings of divorce-ment, wills and all other documents not hereinbefore mentioned.

6. The Registering Officer may in his discretion refuse to accept for registration any document in which any interlineation, blank, erasure or alteration appears, unless the persons executing the document attest them with their signatures or initials. If he registers such document, he shall at the time of registering the same, make a note in the register of such blank or alteration.

7. No document relating to immoveable property shall be accepted for registration unless it contains a description of such property sufficient to identify the same. Houses in towns shall be described as situated on the north or other side of the street to which they front, other houses and lands shall be described by their name, if any, situation, area, and the roads and other properties on which they abut. If the description is sufficient to identify the property, the document may be registered.

8. No document shall be accepted for registration unless presented for the purpose to the proper officer within four months from the date of execution. Provided that where there are several persons executing a document at different times, such document may be presented for registration and re-registration within four months from the date of each execution. If owing to urgent necessity or unavoidable accident any document is not presented for registration within the above period, the Registering Officer in cases where the delay does not exceed four months, may direct that on payment of a fine not exceeding ten times the proper registration fee, the document shall be registered.

9. The document presented for registration should be either in English or in Gujarati. A document in any other language should not be registered unless it is accompanied by an authorized translation of the same in Gujarati and also by a true copy,

10. Every document mentioned above shall be presented for registration in the office of the Registrar or Sub-Registrar within whose district or sub-district the whole or some portion of the property is situate. The District Deputy Assistant Political Agent shall register those for the Thana Circles and Japti Estates over and above the powers of the Thanadars, and Managers who shall register the documents of their respective Thanas and Talukas within the powers conferred on them and those documents of a value beyond the civil jurisdiction of the jurisdictional Talukas under his charge. The Huzur Deputy Assistant Political Agent shall register documents for the Civil Station of Sadra and those of a value beyond the civil jurisdiction of the jurisdictional Taluka or Talukas under his charge and the States and Talukas under the direct charge of the Political Agent. The Assistant Political Agent shall register all documents exceeding the powers of the two Deputies and those for the Thana Circles and jurisdictional Talukdars over and above the powers of the Thanadars and jurisdictional Talukdars under his charge.

11. Every document to be registered under these rules shall be presented at the proper registration office by persons executing and claiming under the same or by their representative or assign.

12. The Registering Officer shall thereupon inquire whether or not such a document was executed by the persons by whom it purports to have been executed satisfy himself as to the identity of the persons appearing before him and alleging that they have executed the document and in the case of any person appearing as representative or assign or agent satisfy himself of the right of such persons so to appear.

13. If all the persons executing the document appear personally before the Registering Officer and are personally known to him or if he be otherwise satisfied that they are the persons they represent themselves to be and if they all or their representatives admit the execution of the document the Registering Officer shall register the document.

14. If all or any of the persons by whom the document purports to be executed deny its execution or if any such person appears to be a minor, an idiot or a lunatic or if any person by whom the document purports to be executed is dead, and his representative or assign denies its execution, the Registering Officer shall refuse to register the document and give a written reply to the party applying for registration stating his reasons for making the refusal.

15. Any person claiming under the document may within thirty days after the making of the order of refusal, apply to the Political Agent's Court by petition in order to establish his right to have the document registered.

16. The petition shall be dealt with as a plaint under the Code of Civil Procedure. The Court shall fix a day for disposal and shall inquire—

- (1) whether the document has been executed, and
- (2) whether the requirements of the law for the time being in force have been complied with on the part of the petitioner so as to entitle the document to registration and shall after due inquiry pass such order as it thinks proper.

17. Where a document purports to convey an interest in property, which according to the conditions of political tenure, standing rules, or circulars cannot be alienated, or can only be alienated with the express sanction of the Agency or of a Chief or other reversioner, a reference must be made for the orders of the Political Agent before registration is effected.

18. If any person presenting a document for registration desires the appearance of any person whose presence or testimony is necessary for the registration of such document the Registration Officer may in his discretion on receipt of the process fee, summon him to appear and examine him under the provisions of the Civil Procedure Code.

19. A registered document shall operate from the time from which it would have commenced to operate if no registration thereof had been required or made and not from the time of its registration.

20. All documents, duly registered under these rules, and relating to any property whether moveable or immovable shall take effect against any oral agreement or declaration relating to such property unless where the agreement or declaration had been accompanied or followed by delivery of possession.

21. No document whose registration is compulsory, shall affect any immovable property comprised therein or be received as evidence of any transactions affecting such property unless it has been registered in accordance with these rules.

22. Every Registrar shall keep—

- (1) Register of documents relating to immovable property.
- (2) Record of reasons for refusal to register.
- (3) Miscellaneous register for documents not relating to immovable property.

23. The date, hour, and place of presentation and the signature of every person presenting a document for registration shall be endorsed on every such document at the time of presenting it; a receipt shall be given to the person presenting the same and every document admitted to registration shall without unnecessary delay be copied in the proper book in proper order and indexed as may be prescribed.

24. (1) On every document admitted to registration there should be endorsed the following particulars :—

- (a) the signature and address of every person admitting the execution of the document,
- (b) the signature and address of every person examined in reference to it,
- (c) any payment of money or delivery of goods made in the presence of the Registering Officer in reference to the execution of the document, and any admission of receipt of consideration, in whole or in part made in his presence in reference to such execution.

(2) If any person admitting the execution of a document refuses to endorse the same, the Registering Officer shall nevertheless register it, but shall at the same time endorse a note of such refusal.

25. The Registration Officer shall affix the date and his signature to all endorsements made under the last preceding section and shall endorse thereon a certificate containing the word "Registered" together with the number and page of the book in which the document has been copied. Such certificate shall be signed, sealed and dated by the Registering Officer. The endorsements referred to in the preceding section thereupon be copied into the appropriate column of the register book.

26. (1) Every Registrar or Sub-Registrar refusing to register a document except on the ground that the property to which it relates is not situate within his sub-district shall make an order of refusal and record his reasons for such order in his book No. 2 and endorse the words "Registration refused" on the document and on application made by any person executing or claiming under the document shall without payment and unnecessary delay, give him a copy of the reasons so recorded.

(2) No registering officer shall accept for registration a document so endorsed unless and until, under the provisions hereinafter contained the document is directed to be registered.

27. An appeal shall lie from the orders of a Sub-Registrar to the Registrar under whose charge he is placed and an appeal shall lie from the Registrar's order to the Political Agent. Any person claiming under the document may within 30 days after the making of the order of refusal, apply to the appellate court by petition in order to establish his right to have the document registered. The order of the Registrar and the Political Agent on appeal shall be final.

28. The petition shall be dealt with as a plaint under the Code of Civil Procedure. The Court shall fix a day for disposal and shall inquire—

(1) whether the document has been executed, and

(2) whether the requirements of the law for the time being in force have been complied with on the part of the petitioner so as to entitle the document to registration.

29. If it finds that the document has been executed and that the said requirements have been complied with the court shall order the document to be registered, and if the document be duly presented for registration within 30 days after the making of such order the registration shall be made as hereinbefore provided.

30. A Registrar or the Political Agent may for the purpose of any enquiry under rule 28, summon and enforce the attendance of witnesses and compel them to give evidence and he may also direct by whom the whole or any part of the cost of such enquiry shall be paid and such cost shall be recoverable as costs in a suit.

31. The following table of fees shall apply to the registration of documents and other matters connected with these rules :—

	Rs. A. P.
(a) Compulsory registration of documents affecting immoveable property for every 100 words	0 3 0
(b) Minimum fee	3 0 0
(c) Optional registration of documents affecting immoveable property for every 100 words	0 4 0
(d) Minimum fee	1 8 0
(e) Registration of documents affecting moveable property only for every 100 words	0 4 0
(f) Minimum fee	1 0 0
(g) Granting copy of document (besides copying and comparing fees)	1 0 0
(h) Searching for entry by Registering Officer for every year of which the register or index is searched	1 0 0

32. Whoever—

(a) intentionally makes any false statement whether on oath or not before any Registering Officer ; or

(b) intentionally delivers to a Registering Officer a false copy or translation of a document ; or

(c) falsely personates another and presents any document in such assumed character or makes any admission or statement or does any other act in any proceeding or enquiry under these rules ;

(d) abets anything made punishable by these rules shall be punishable with imprisonment for a term which may extend to 3 years or with fine or both.

33. Offences punishable under these rules shall be triable by the Assistant or Deputy Assistant Political Agent.

34. Every person shall be legally bound to furnish information to a Registering Officer when required by him to do so.

35. (a) The fee should be received in court-fee stamps and those stamps should be affixed on the document and cancelled and an entry thereof should be made in the register.

(b) In the Managed States the fees should be levied in cash and credited to the State accounts.

36. Nothing contained in these rules shall be deemed to require the registration of any of the following documents :—

(a) Certificates of sale of immoveable property issued by Civil Courts of the Agency ;

(b) Notices of relinquishment of occupancies ;

(c) Agreements of occupancies ;

(d) Documents executed by the Political Agent on behalf of Government.

APPENDIX VI.

Extract from the Punjab Registration Rules.

TABLE OF REGISTRATION FEES.*

(SECTIONS 78 AND 79 OF REGISTRATION ACT.)

ARTICLE I.—For the registration of documents:—

(1) In book 1, register of non-testamentary documents relating to immoveable property—

When registration is optional under section 18 ... 0 8 0

When registration is obligatory under section 17:—

(a) For all documents, other than leases of immoveable property, if the value or consideration money does not exceed Rs. 200 1 0 0

Exceeds Rs. 200 but does not exceed Rs. 400 ... 2 0 0

" " 400 " " 600 ... 3 0 0

" " 600 " " 1,000 ... 4 0 0

" " 1,000 " " 1,500 ... 5 0 0

" " 1,500 " " 2,000 ... 6 0 0

" " 2,000 " " 2,500 ... 7 0 0

" " 2,500 " " 3,000 ... 8 0 0

" " 3,000 " " 4,000 ... 9 0 0

" " 4,000 " " 5,000 ... 10 0 0

" " 5,000 " " 7,500 ... 12 0 0

" " 7,500 " " 10,000 ... 14 0 0

" " 10,000 " " 15,000 ... 16 0 0

" " 15,000 " " 20,000 ... 18 0 0

For every Rs. 5,000, or part thereof, in excess of Rs. 20,000, up to and not exceeding Rs. 50,000 ... 1 0 0

For every Rs. 5,000, or part thereof, in excess of Rs. 50,000, up to and not exceeding Rs. 1,00,000 ... 0 8 0

For every Rs. 5,000, or part thereof, in excess of Rs. 1,00,000 ... 0 4 0

If the value or consideration be only partly expressed ... † 2 0 0

(b) For leases of immoveable property half the value of the stamp duty payable on the lease, or, if the lease is exempted from stamp duty, a fee of ... 0 8 0

(c) If the value or consideration be not expressed at all, a fixed fee of ... 5 0 0

(NOTE.—The registration fee to be paid on partition-deeds should be calculated on the value of the share or shares on which stamp duty has been assessed under article 45 in schedule I to the Stamp Act).

(2) In book 3, register of wills and authorities to adopt ... 4 0 0

(3) In book 4, "Miscellaneous Register" ... 1 0 0

* As published in Punjab Government Notification No. 57, dated the 31st October 1907.

† In addition to an ad valorem fee as above on the value or consideration expressed.

Under section 80 of the Registration Act all fees for the registration of documents shall be payable on the presentation of such documents, provided that no fee shall be levied for the registration of security bonds furnished by court inspectors and assistant court inspectors, under the provisions of paragraph 464, chapter XIII, of the Punjab Police Rules, Volume I.

Provided also that under the notification of the Government of India, Home Department, No. 2520, dated the 6th of November 1908, all fees payable under the law of registration for the time being in force, in respect of instruments executed by or on behalf of any co-operative credit society for the time being registered under the Co-operative Credit Societies Act (X of 1904) or by an officer or member of such a society and relating to the business thereof, are remitted.

ARTICLE II.—For inspections or searches by the public and searches by the registering officer under section 57—

	Rs.	a.	p.
For each register book or index No. 1 inspected	0	8 0
For searching the index register of a particular year	0	8 0
For searching the index register of any year after the first	0	4 0
Subject to a maximum of	5	0 0

Provided that no search fees shall be charged in respect of a document of which a copy is applied for when the names of the claiming and executing parties, the nature and date of the document and the date of registration are shown in the application for the copy.

Provided, further, that no fee shall be charged for searches made in answer to calls by Civil Courts to ascertain whether attached properties are encumbered.

ARTICLE III.—For making or granting copies of reasons, of entries, or of documents, before, on or after registration:—

	Rs.	a.	p.
Where the number of words does not exceed 400	0	8 0
For every 100 words, or part thereof, in excess of 400...	...	0	2 0

NOTE (a).—When registration is refused, neither registration nor copying fee is to be levied.

Copies of reasons granted before registration are those which, in case of refused registration, are given on application made by any person executing or claiming under the document, as provided in section 76 of the Act.

NOTE (b).—When application for a copy under section 57 necessitates a search, the fee prescribed by Article II is to be levied in addition to that chargeable under Article III.

NOTE (c)—Government officers who may require to search the registers or take copies of entries in the registers for *bond fide* public purposes will be exempted from payment of the fees under Articles II and III, on a certificate being granted by the Registrar of the district that the information is required solely in the interests of Government.

NOTE (d)—The fees for copying maps and plans of estate or houses, &c., such as are filed in supplementary book 1, shall be determined by the head of the office.

NOTE (e)—No additional charges should be levied in respect of the copying into the registration books of endorsements made in accordance with sections 52, 53 or 60 of the Act.

EXTRA OR ADDITIONAL FEES.

ARTICLE IV.—For discretionary registration under section 30.—

	Rs.	a.	p.
(1) By the registrar of the district under clause (a) ...	4	0	0
(2) By the registrar of the Lahore district under clause (b) ...	10	0	0

NOTE.—The additional fee under this article is not payable on the registration of wills and authorities to adopt.

Nor is to be levied in cases where the sub-registrar, owing to his being pecuniarily interested in the transaction, or to his being unacquainted with the language in which the deed is written or for any other sufficient reason, is unable to register himself.

ARTICLE V.—For the issue of commissions and for attending at private residences :—

	Rs.	a.	p.
(1) When a satisfactory certificate is produced as to sickness or infirmity, or when the person to be examined is in jail ...	5	0	0
(2) In all other cases	10	0	9

NOTE.—In addition to the above fee, travelling allowance at the following rates is to be levied for the actual distance travelled over, provided that the place visited is more than one mile from the registration office :—

- (a) In the case of government officials at the rates prescribed in the Civil Service Regulations. For the purpose of article 1005 of those regulations the sub-registrars of Delhi, Amritsar and Lahore are regarded as officers of the second class, and all other departmental and honorary sub-registrars as officers of the third class.
- (b) In the case of commissioners, if appointed, at the rate prescribed for third class officers.
- (c) The daily allowance admissible in the case of the sub-registrars of Delhi Amritsar and Lahore is Rs. 2; and in the case of other sub-registrars and of commissioners Rs. 1.

	Rs.	a.	p.
ARTICLE VI.—For filing translations	1	0	0

ARTICLE VII.—For deposit, withdrawal, and opening of sealed wills—

(1) When deposited in sealed cover under section 42...	4	0	0
(2) When withdrawn under section 44	2	0	0
(3) When opened under section 45	4	0	0

NOTE.—No fee beyond the copying fee under article III shall be levied for copying into book No. 3 wills opened under section 45.

	Rs.	a.	p.
ARTICLE VIII.—For the authentication of a power of attorney under section 33	1	0	0

ARTICLE IX.—When under section 36 application is made to issue and serve a summons, process fees and remuneration of the person summoned, at the rate prescribed for the civil courts of the province, are to be levied from the person at whose instance, or in whose behalf the application is made, and forwarded with the application. When, however, the person summoned is the person who has executed the documents remuneration is not to be allowed him.

ARTICLE X.—For the safe custody of document remaining unclaimed after registration, or after registration is refused :—

Rs. a. p.

When application for return of a registered document or of a document, registration of which has been refused, is made more than one week, but not more than two weeks, from the date of such registration or refusal 0 4 0

And for delay in applying for return of such document beyond two weeks, for each week or fraction thereof 0 4 0

Provided that the maximum fee leviable under this article in the case of a single document shall not exceed 5 0 0

NOTE (1).—A registrar is empowered in his discretion to remit, in whole or in part, fees leviable under this article by himself or by registration officers subordinate to him in cases in which it appears to him that their exaction would be productive of injustice or hardship.

NOTE (2).—It must be understood that no custody fee is leviable when application for the return of a document is made *within one week after the date of registration*.

Thus, if the document be registered on the 31st March, no fee is chargeable if application for its return be made between 1st and 7th April; but if the application be made after 7th April; fees are leviable as follows.—

Rs. a.

0 4 if application be made between 8th and 14th April.

0 8 " " " 15th and 21st April.

0 12 " " " 22nd and 28th April.

1 0 " " " 29th April and 5th May.

1 4 " " " 6th and 12th May.

and so on, an additional fee of 4 annas being leviable for each week's further delay in making application for return, up to a maximum fee of Rs. 5.

APPENDIX VII.

Rules made under the Punjab Alienation Act XIII of 1900, (Section 25), regarding the duties of Registering Officers in refusing or admitting Registration of Instruments alienating Rights in Land.

1. (a) When an instrument which records or gives effect to a permanent alienation of land, requiring, under section 3 of the Act, the sanction of the deputy commissioner, is presented to a registering officer unaccompanied by a certified copy of an order giving such sanction; or

(b) when an instrument of agreement purporting to charge or alienate the produce of land, which, under section 15 of the Act, requires the sanction of the deputy commissioner, is presented unaccompanied by a certified copy of an order giving such sanction; or

(c) when an instrument of mortgage, which is required to be made in one of the forms prescribed in section 6 of the Act, is presented not made in any such prescribed form, the registering officer in refusing to admit the instrument to registration, shall proceed in the following manner: he shall

(d) record no endorsement upon the document itself, nor shall he make any entry of reasons for refusal to register in book II; but

(c) he shall enter his reasons for not admitting the instrument to registration in a separate book* (to be prescribed and provided by the inspector-general of registration), and shall give to the presenter of the instrument a copy of such entry, and shall, at the same time, return the instrument unendorsed to the presenter.

2. An instrument of the kinds mentioned in the foregoing rule which has been returned thereunder may be presented again for registration, and may then be admitted to registration if accompanied by the certified copy of the order which was required, or if amended by the parties themselves, or by the deputy commissioner acting under section 9 of the Act, so as to make it conform to the prescribed form.

3. (a) In registering an instrument of the kinds mentioned in clauses (a) and (b) of rule I the registering officer shall regard the accompanying order of the deputy commissioner giving the necessary sanction as a part of the instrument, and shall cause a copy of such order to be entered, along with the copy of the instrument, in the appropriate book; and

(b) in registering an instrument of the kind mentioned in clause (c) of rule I, when the same has been revised or altered by the deputy commissioner acting under section 9 of the Act, the registering officer shall regard such order of revision or alteration as a part of the instrument, and shall cause a copy of such order to be entered along with a copy of the instrument in the appropriate book.

4. An appeal may be lodged to the registrar against any return of an instrument made by a sub-registrar under clause (c) of rule I, and if the registrar directs that the instrument shall be registered in the form in which it was originally presented, the sub-registrar shall register it accordingly. If the registrar directs that the instrument shall be registered only after specified amendment or addition, then the provisions of rule 2 as to admission to registration shall apply.

2. These books are entirely distinct from book II in which reasons for ordinary refusal are recorded, and the object of issuing the present book is that the two classes of refusal should be kept entirely distinct.

EXPLANATORY NOTE WITH ADDITIONAL INSTRUCTIONS.

1. The above rules were required because section 17 of the Punjab Alienation of Land Act, 1900, enjoin that when an instrument is presented for registration, which—

(1) contravenes any provision of the Act, or

(2) records, or gives effect to any transaction which requires the sanction of the deputy commissioner under the Act, and the instrument is not accompanied by a certified copy of the order, giving such sanction,

the instrument shall not be registered.

2. To apply the rules properly, registering officers must acquaint themselves with the meaning of the term 'agricultural tribes,' as used in the Act. The Punjab Government has by notification decided what persons are members of agricultural tribes and how those tribes are grouped in each district. In each district all the tribes in the same group form, to all intents and purposes, one society between the members of which alienations are not restricted by the Act. A separate group (e.g., Brahmins in some districts) is debarred from receiving land from members of other groups of agricultural tribes except as provided in the Act.

* **NOTE.**—Books with lithographed headings have been prepared and forwarded to all registering officers in which reasons for refusing documents under the provisions of the Alienation of Land Act should be recorded.

Nor are alienations by persons who are not members of agricultural tribes restricted by the Act (except in one instance mentioned below).

3. Therefore when a deed of permanent alienation of land is presented to a registering officer his first business is to consider who the alienor is.

If the alienor is not a member of an agricultural tribe the deed may be registered without attention to the question of who the alienee is.

4. When an instrument of permanent alienation of land is presented, if the alienor is a member of an agricultural tribe, then the registering officer should ascertain who the alienee is.

If the alienee is a member of one of the agricultural tribes in the same group in the same district as the alienor, the instrument may be registered without question.

If the alienee is not such a person, the deputy commissioner's sanction to the transfer is required, and, if no copy of such order is produced, the document should be returned unendorsed under rule 1, with instructions that a copy of the deputy commissioner's order of sanction is required, and that the instrument can only be admitted to registration when this defect has been supplied and it has been presented again under rule 2.

5. When a mortgage deed is presented it is necessary to ascertain who the alienor is. If he is not a member of an agricultural tribe the deed can be registered without question, even although it contains a condition intended to operate by way of conditional sale, for, although such condition would be void under section 10 of the Act, the deed in other respects would not be necessarily invalid.

If the alienor is a member of an agricultural tribe, then, if the alienee is also a member of one of the agricultural tribes in the same group in the same district as the alienor, the deed may be registered without question.

But if the alienor is a member and the alienee is not a member of an agricultural tribe in the same group then the deed should be returned under rule I, unless it is drawn up in one or other of the following forms:—

- (a) in the form of a usufructuary mortgage, by which the mortgagor delivers possession of the land to the mortgagee, and authorises him to retain such possession and to receive the rents and profits of the land in lieu of interest and towards payment of the principal, on condition that after the expiry of the term agreed on, or (if no term is agreed on, or if the term agreed on exceeds twenty years) after the expiry of twenty years, the land shall be re-delivered to the mortgagor; or
- (b) in the form of a mortgage without possession, subject to the condition that, if the mortgagor fails to pay principal and interest according to his contract, the mortgagee may apply to the deputy commissioner to place him in possession for such term, not exceeding twenty years, as the deputy commissioner may consider to be equitable, the mortgage to be treated as a usufructuary mortgage for the term of the mortgagee's possession and for such sum as may be due to the mortgagee on account of the balance of principal due and of interest due not exceeding the amount claimable as simple interest at such rate and for such period as the deputy commissioner thinks reasonable; or
- (c) in the form of a written usufructuary mortgage by which the mortgagor recognises the mortgagee as a landlord and himself remains in cultivating occupancy of the land as a tenant, subject to the payment of rent at such rate as may be agreed upon not exceeding

sixteen annas per rupee of the amount of the land-revenue in addition to the amount of the land-revenue of the tenancy, and the rates and cesses chargeable thereon, and for such term as may be agreed on, the mortgagor having no right to alienate his right of cultivating occupancy, and the mortgagee having no right to eject the mortgagor unless on the grounds mentioned in section 39 of the Punjab Tenancy Act, 1887.

When a mortgage deed is returned owing to its not being drawn up in one or other of the above forms, it may be accepted for registration if presented again in amended form under rule 2.

6. When an instrument purporting to alienate or charge produce of land is presented it is necessary to ascertain who the alienor is. If he is a member of an agricultural tribe, then, if the deed purports to alienate or charge the produce for more than one year, the deputy commissioner's sanction to the alienation is required, and if no copy of such order or sanction is produced, the deed should be returned under rule 1 with instructions that a copy of the deputy commissioner's order of sanction is required before it can be admitted to registration under rule 2.

7. An instrument of lease or farm made by a member of an agricultural tribe should not be refused admission to registration merely because the term of years prescribed in section II of the Act is exceeded in the conditions of the instrument, as the instrument in other respects would not be necessarily invalid.

8. If when an instrument is returned for amendment under rule 1 it is entirely re-written and re-executed so as to form a fresh document which conforms to the form prescribed by the Act, such fresh document may, of course, be admitted to registration under rule 2, just as if it were the original document amended.

9. (a) Delay in registering a document occasioned by the necessity of obtaining any order of a deputy commissioner under the Punjab Alienation of Land Act, 1900, should, in the absence of any reason to the contrary, be held by the registering officer to be a delay due to urgent necessity within the meaning, and for the purposes of, sections 25 and 34 of Act XVI of 1908, and in such cases sub-registrars should take the orders of registrars accordingly.

(b) If any delay occasioned by the necessity of obtaining an order of a deputy commissioner under the Punjab Alienation of Land Act, 1900, is not due to any default on the part of the person desiring registration, the registrar, in directing the registration of the document, should, whether he is acting under section 25 or section 34 of Act XVI of 1908, require payment of only a nominal fine. It is obvious that the fine or additional fine should be as nominal as possible, and an order for the payment of an amount of even only one anna in excess of the proper registration fee would satisfy the rule as to fines or additional fines, made under section 69 of Act XVI of 1908 to meet cases of this kind.

10. (a) It is necessary to add that 'permanent alienations' means sales, exchanges, gifts, wills and grants of occupancy rights.

(b) Also that 'land' means land which is not occupied as the site of any building in a town or village, and is occupied or let for agricultural purposes or for purposes subservient to agriculture, or for pasture, and includes—

- (a) the sites of buildings and other structures on such land ;
- (b) a share in the profits of an estate or holding ;
- (c) any dues or any fixed percentage of the land-revenue payable by an inferior land-owner to a superior land-owner.
- (d) a right to receive rent ;
- (e) any right to water enjoyed by the owner or occupier of land as such ;
- (f) any occupancy right.

APPENDIX VII.

Extract from Burma Registration Rules.

* TABLE OF REGISTRATION FEES.

(DIRECTION 5.)

Scale of ad valorem fees leviable on the registration of certain documents.—(A)

The fees for the registration of—

- (a) conveyances and bills-of-sale ;
- (b) deeds-of-gift or dower ;
- (c) settlements ;
- (d) deeds of partition ;
- (e) leases and agreements to lease ;
- (f) deeds-of-mortgage ;
- (g) memoranda of the deposit of title-deeds ;
- (h) instruments of further charge ;
- (i) bonds other than administration, customs, indemnity, and † security bonds ;
- (j) declaration of trust ;
- (k) transfers of any interest secured by a bond, lease, mortgage-deed or policy of insurance ;
- (l) policies of insurance ;
- (m) instruments of exchange ;
- (n) bills of exchange ; and
- (o) promissory notes ;

shall be calculated by the following scale according to the value of the right, title, or interest affected, namely :—

Value of right, title, or interest affected.	Fee.
	Rs. A. P.
Where the value does not exceed Rs. 50	0 8 0
" " exceeds Rs. 50, but does not exceed Rs. 100	0 12 0
" " " Rs. 100, " " Rs. 200	1 0 0
" " " Rs. 200, " " Rs. 400	1 8 0
" " " Rs. 400, " " Rs. 600	2 0 0
" " " Rs. 600, " " Rs. 800	2 8 0
" " " Rs. 800, " " Rs. 1,000	3 0 0
For each additional Rs. 1,000 of value or part thereof up to Rs. 50,000	1 0 0
And for each additional Rs. 1,000 of value or part thereof above Rs. 50,000	0 8 0

Provided—

- (1) that, in cases where any consideration is expressed, the consideration, and, in the case of leases and other periodical payments, the amount payable for one year, in addition to any fine or premium, and in the case of bonds and mortgages, the amount to be secured, shall be taken to be the value of the right, title, or interest affected ;

* Published with the Local Government's General Department Notification No. 103, dated the 2nd June 1897, as amended by General Department Notifications Nos. 174 and 301, dated 9th August 1900 and 27th November 1905.

† See Direction 3, page 66.

- (ii) that, if no consideration, rent, or other value be expressed in the document, the amount payable shall be Rs. 10 ;
- (iii) *that the fee on any instrument comprising or relating to several distinct matters shall be the aggregate of the fees with which separate instruments, each comprising or relating to one of such matters, would be chargeable ;
- (iv) *that an instrument so framed as to come within two or more descriptions of the documents enumerated shall, when the fees chargeable thereunder are different, be charged with the highest of such fees.
- (v) †that the registration fee leviable upon a document purporting to give collateral or auxiliary or additional or substituted security or security by way of further assurance, where the principal or primary mortgage is proved to the satisfaction of the registering officer to have been duly registered, shall be the same as for the principal or primary mortgage if the same does not exceed Rs. 2, otherwise it shall be Rs. 2.

Fees on the registration of certain other instruments.—(B) The fee for the registration of a separate instrument acknowledging the receipt or payment of any sum of money, whether consideration on account of any deed-of-sale or mortgage, or rent on account of any lease, or other value expressed in any document, shall be calculated on the above scale according to the amount received :

Provided that, if any instrument referring to the same transaction has already been registered, the fee shall not exceed Rs. 2.

(C) (a) The fee to be paid on the deposit of any sealed cover containing a will shall be Rs. 2

Wills (Sections 425, and Rules 88-92).—(b) The fee for the opening of such cover shall be Rs. 2, besides the expense of copying the contents according to the scale laid down in this table for the granting of certified copies. [See (I).]

Certified copy of order of Court.—(c) The fee for the registration of any will presented open shall be Rs. 4 (D) The fee for the registration of a certified copy of a decree or order of Court shall be Rs. 1.

Agreement for personal service.—(E) The fee for the registration of an agreement for personal service shall be 8 annas.

Miscellaneous documents.—(F) ‡ The fee for the registration of any document of a description not mentioned above shall be Rs. 2.

Extra for copy or memorandum to be forwarded to another office—(G) For every copy or memorandum of a document to be forwarded to another office under sections 64-7 of the Indian Registration Act, 1877, there shall be paid an extra fee equivalent to that paid under Article (A), (B), (D), or (F) :

Provided that the fee for a copy shall not exceed Rs. 10, and that the fee for a memorandum shall not exceed Rs. 1.

— *Search.*—(H) The fee to be paid for search shall be—

for the first year in respect of which the search is made in the books—Rs. 1 ; for every other year, annas 4.

* Added by General Department Notification No. 174, dated 9th August 1900.

† Added by General Department Notification No. 801, dated 27th November 1902.

‡ This is the fee for fishery and other security bonds except when property is pledged thereby ; see Direction 8, page 66 : the fee should be paid by Government, see Direction 7, page 66.

The first year shall be taken to mean any one year indicated by the applicant:

Provided that no fee under this article shall exceed the sum of Rs. 5.

Explanation.—Every application for the grant of a certified copy except at the time of the registration of a document, shall be considered as an application for search.

Copying fees.—(I) For making or granting copies of reasons (other than those excepted by section 71 of the Indian Registration Act, 1877), entries, or documents* before or after registration, a fee shall be charged at the rate of 1 anna for every 100 words in the Native character, and of 2 annas for every 100 words in the English character.

Besides the ordinary fees payable under Articles (A), (B), (C), (c), (D), and (F), there shall be paid for the copying on registration of every document of a length exceeding 300 words an extra fee, calculated at the above rate, for the part of such document exceeding 300 words. No copying fee shall be paid for copying in the registration-books any document which does not exceed 300 words in length.

Registration by a Registrar.—(K) an additional fee of Rs. 5 shall be charged for the registration by a Registrar of any document under section 30 (a) of the Indian Registration Act, 1877:

Provided that this additional fee shall not be payable when an instrument is registered by a Registrar acting as Sub-Registrar under section 12 of the Act, or in consequence of the Sub-Registrar, by whom it should be registered under section 28 or section 29, being a party interested in the transaction to which such instrument relates.

Visits.—(L) † (1) Before the registering-officer proceeds to attend at the residence of any person who desires to present a document for registration, or to deposit a Will under section 31 of the Indian Registration Act, 1877, there shall be paid a fee of Rs. 10 and travelling allowance fees at the following rate, namely:—

- (a) in towns where the Hackney Carriage Act, 1879,‡ is in force, a fee equal to the fare from the registration-office to the residence and back of a hackney carriage of the best class of carriages which daily ply for hire;
- (b) in other places, when the residence is within a radius of 5 miles from the registration-office, a fee of 6 annas a mile from the registration-office to the residence and back;
- (c) when the residence is more than 5 miles from the registration-office a fee equal to the travelling allowance which the registering-officer would receive from Government if travelling upon Government business;

(2) In cases which fall under clause (a), the presenter of the document or depositor of the will shall, on demand, pay to the registering-officer at his departure from the residence a fee equal to any fare which may have become due for the detention of the hackney carriage.

Commissions.—(M) † (1) Before the issue of commission, or before the registering-officer personally proceeds to any dwelling-house or jail to obtain evidence as to the voluntary nature of the execution of a power-of-attorney under section 33, or for the examination of any person under section 38, a fee shall be paid as follows on account of every person exempted from appearance:—

* Regarding fees for copies of maps, see Direction 6, page 65.

† See Direction (5ii), page 64.

‡ Printed Burma Code, Edition 1899, page 39.

APPENDIX VII.

- (a) if the person is exempted on account of bodily infirmity, such as to make it impossible without risk of life to attend the office, or because confined in jail, Rs. 5;
- (b) if the person is exempted on account of sickness of any other kind, or as a person exempt by law from personal appearance in Court Rs. 10;

and an additional travelling allowance fee shall be paid to the person to whom the commission is issued or to the registering-officer or Magistrate at the same rates as for a journey under Article (L).

(2) If a commission is issued to a non-official person, the fee for travelling allowance in cases such as that described in clause (c) of Article (L) shall be 8 annas per mile or part of a mile.

Calculation of fees under clauses (K), (L) and (M).—(N) (1) Although, when two or more copies of a document executed by the same parties are presented for registration at the same time, an ordinary fee is payable for each copy, yet any extra or additional fee which is payable under clauses (K), (L), or (M) shall be calculated as for one document only, no matter how many copies of that document may be registered.

(2) If two or more persons who execute the same document reside together, only one fee of Rs. 5 or Rs. 10, as the case may be, shall be charged under Article (L) or Article (M), so far as those persons are concerned.

Power-of-attorney.—(O) For authenticating under section 33 (a) of the Indian Registration Act, 1877, the execution of a power-of-attorney* the fee shall be one rupee.

Fees for serving summonses.—(P) The fees for serving summonses and other processes (not including commissions) under the provisions of sections 37, 39, and 75 of the Indian Registration Act, 1877, shall be regulated according to the scale† in force in the Civil Court of lowest original jurisdiction in the same district.

Fees for safe custody of documents.—(Q) (1) The fee to be levied for the safe custody of a document which remains unclaimed after it has been registered or after registration of it has been refused, shall be calculated according to the following scale, namely:—

Rs. A. P.

When the document has remained unclaimed—

For more than one and less than two months...	...	0	8	0
" " two " " three " "	...	1	0	0
" " three " " six " "	...	2	0	0
" " six months and less than one year	...	3	0	0
" " one year and less than 18 months	...	4	0	0
" " 18 months " " "	...	5	0	0

(2) The Inspector-General of Registration may, in his discretion, remit this fee in any case in which it appears to him that its exaction would cause injustice or hardship. When a Registrar or Sub-Registrar considers that a fee should be remitted, he shall refer the matter with a statement of the reasons for reference, to the Inspector-General of Registration for orders.

* The fee is the same whether the power is special or general. See also Direction 32, page 71.

† See Court Fees Rules, Chapter I, page 43, Burma Stamp Manual, Ed. 1903

INSTRUCTIONS AND ORDERS. BENGAL.

PART I.

REGISTRATION ESTABLISHMENTS AND THEIR REMUNERATION.

Registrars.—1. Except in Calcutta, the Magistrate-Collectors and Deputy Commissioners of districts are *ex-officio* Registrars.

In Calcutta, the Registrar is a salaried officer of the Department.

District Sub-Registrars.—2. The Sub-Registrars at the head-quarters of all districts except Angul, Darjeeling, Palamau, Singhbhum, Sambalpur and the Sonthal Parganas are styled District Sub-Registrars.

Ex-officio Sub-Registrars at head-quarters.—3. There are officers belonging to other departments of Government, who are *ex-officio* Sub-Registrars at the head-quarters of the districts of Angul, Darjeeling, Singhbhum and the Sonthal Parganas.

Sub-Registrars and Joint Sub-Registrars.—4. Registering officers other than District Sub-Registrars are either Sub-Registrars or Joint Sub-Registrars.

Ex-officio Sub Registrars.—5. The Sub-divisional officers of Jamtara, in the Sonthal Parganas, of Kurseong and Silliguri, in the district of Darjeeling, of Khondmal, in the district of Angul, and the Deputy Collector of Banki, in the district of Cuttack, are *ex-officio* Sub-Registrars.

Remuneration of District Sub-Registrars.—6. The District Sub Registrars are re-munerated by fixed salaries personal to them. There are four grades of District Sub-Registrars with the following salaries :—

					Rs.
Grade	I	...	...	...	250
"	II	...	...	...	225
"	III	...	...	...	200
"	IV	...	...	...	175

Remuneration of Sub-Registrars.—7. Sub-Registrars are remunerated either by fixed salaries personal to them or by commission.

Grades of salaried Sub-Registrars.—There are five grades of salaried Sub-Registrars which are mentioned below :—

					Rs.
Grade	I	...	...	...	150
"	II	...	...	...	125
"	III	...	...	...	100
"	IV	...	...	...	75
"	V	...	...	...	50

The fifth grade is the Leave Reserve and officers in that grade are not ordinarily placed in permanent charge of offices but are employed for relieving and other purposes.

Probationers.—Beside these there are "Probationers" who draw a subsistence allowance of Rs. 20 per mensem each.

Salary bills of District Sub-Registrars and Sub-Registrars.—8. The salary bills of District Sub-Registrars and of Sub-Registrars paid by fixed salaries are to be drawn in Accountant-General, Bengal's Form No. 297. They do not require the countersignature of superior authority.

Remuneration of ex-officio Sub-Registrars.—9. The *ex-officio* Sub-Registrars either at the head-quarters of a district or elsewhere, are remunerated by commission at 25 per cent. of the fees subject to a maximum of Rs. 600 for the half-year. The commission is payable half-yearly and the bills require the countersignature of both the Registrar and the Inspector-General of Registration. The commission will be allowed on the fees of those documents only which have been admitted to registration and not on those that are refused or pending during the half-year for which the bill is drawn. The fees on the pending documents are taken into account during the half-year, in which they are admitted to registration.

10. When an officer is temporarily placed in charge of the office of an *ex-officio* Sub-Registrar during his absence on casual leave or on inspection duty in the interior of his district, he is not entitled to draw commission which will be paid to the permanent incumbent.

Commission bills.—11. The commission bills of *ex-officio* Sub-Registrars shall be drawn in Accountant-General, Bengal's Form No. 285 and be prepared according to following instructions :—

(1) The commission is payable every half year, *i.e.*, from January to June and from July to December of each year.

(2) When more than one officer holds charge of a Sub-Registrar's office during the half-year, separate commission bills will be submitted, showing the amount of commission due to each officer.

(3) To ensure the correct preparation of the bill, certain calculations are necessary. Each bill will, therefore, be supported by extract registers showing—

(a) the amount of fees on documents pending at the close of the half-year for which the bill is drawn ;

(b) the amount of fees on documents presented and refused during the half-year for which the bill is drawn ;

(c) the amount of fees on documents presented in previous months, but admitted to registration during the half-year for which the bill is drawn.

(4) These extract register forms may be obtained from the Assistant Manager of Forms, Bengal.

(5) Those documents which have no entry against them in column 8 of the fee-book will be at once seen to be pending, and will be abstracted into extract register No. I.

(6) Those documents which have been refused will be at once detected by the dates being entered in red ink, and will be abstracted into extract register No. II.

(7) Documents admitted to registration after the close of the month in which they are presented will again be readily distinguished by the date of admission. Thus, if in the fee-book for May a document appears with date of admission, July 8th, the Sub-Registrar will know that in drawing his bill for July he may take credit for the document. Such documents will be abstracted into extract register No. III.

(8) In addition to the above, the commission bill will be supported by the Treasury officer's receipt for the total sum remitted by the Sub-Registrar to the treasury.

Remuneration of Sub-Registrars paid by commission.—12. Sub-Registrars who are remunerated by commission are entitled to draw it at the end of every month on the following scale :—

			Rs.
(i) When the number of registrations does not exceed 60 a month			40
Above 60 and not exceeding 80			50
Do. 80	ditto	125	70
Do. 125	ditto	170	85
Do. 170	ditto	200	95
Do. 200	ditto	250	105
Do. 250	ditto	300	110
Do. 300	ditto	350	115
Do. 350	ditto	400	125
Do. 400	ditto	450	135
Do. 450	ditto	500	145
Do. 500	...	...	150

The form of bill to be used is Accountant-General, Bengal's Form No. 314.

(ii) A Sub-Registrar is entitled to commission only on documents actually completed by him and not on documents admitted by him to registration but completed by his successor.

(iii) Each miscellaneous operation on which a fee is charged, such as authentication of powers-of-attorney, commission, visit and search, will be counted as one registration for purposes of calculation of the commission.

(iv) The levy of fees under articles F(a) and F(b) of the Table of fees, should count as one operation, if the application for search and copy are filed on the same date. But if an application for copy be made on a date subsequent to that on which the search is made, it should be considered as a separate operation.

Ministerial Establishments.—13. The permanent clerks and muharrirs in all registration offices are salaried officers of Government. They are appointed by the Registrars of districts. Their salary bills will be drawn on Accountant-General, Bengal's Form No. 298 or 299. Such bills are to be signed by the registering officer under whom the clerks and muharrirs are employed and they do not require the countersignature of any higher authority.

Extra establishments.—14. (a) Registering officers are expected ordinarily to work their offices with the sanctioned number of ministerial officers but when an unusually large number of deeds is presented for registration, extra establishments may be employed, ordinarily with the *previous* sanction of the District Registrar; but the District Registrar has been authorised to empower a Sub-Registrar who may be considered fit to exercise his discretion properly, to entertain extra establishments, in anticipation of his sanction. The registering officer incurs a serious responsibility if he fails to exact the full amount of work from the permanent establishment and if he keeps the extra establishments in employment longer than the period for which their employment may be absolutely necessary for keeping his office free from arrears.

Report for sanction to Registrar.—(b) As soon as a Sub-Registrar, who has been authorised by the Registrar to entertain extra establishment in anticipation of his sanction, employs extra hands, he should submit to the Registrar a report for his sanction, giving his reasons in full for the necessity of additional help. This report may be submitted in Form No. 21, Appendix VI, with such additional particulars as the Registrar may prescribe. As an additional safeguard, the Registrar may call for weekly statements of progress showing the work of the permanent and extra hands during the employment of the temporary establishments.

Standards of work of permanent hands.—(c) The ordinary minimum standard of work up to which the permanent copyists in the district head-quarters office must have worked before extra establishments can be applied for, is 10 pages of 300 words copied and 20 pages compared per man per day. The minimum standard for other offices is 12 pages of 300 words copied and 20 pages compared per man per day. It should be borne in mind that these are minimum standards and that permanent copyists are expected to exceed them.

(d) The extra copyists employed shall be paid at the rate of Rs. 15 per calendar month for the number of days employed provided they attain the minimum standards mentioned above.

(e) Bills for extra establishments should be drawn in Accountant-General Bengal's Form No. 316, the orders sanctioning their entertainment being quoted in the bills.

15. (a) Applications for sanction to the payment of extra establishments employed during any month, should be made to the Inspector-General at the end of the month in Form No. 22, Appendix VI.

(b) A page in columns 2 to 4 of the form of application for extra establishment means a page of 300 words. To arrive at the figures to be shown in these columns, the total number of words copied, either by the permanent or extra muharrirs, should be carefully ascertained and divided by 300.

(c) The Sub-Registrars shall, after careful personal examination, certify on the form of application that the figures in these columns have been arrived at according to the above instruction.

16. In submitting the applications for the entertainment of extra establishment, the number of Hindus, Muhammadans and others (Christians, etc.), employed as extra muharrirs, should be shown separately in column 5 of the application.

Employment of apprentices.—17. (a) Not more than one unpaid apprentice shall ordinarily be entertained in any Registration Office, except in district head-quarters offices where the number of permanent clerks exceeds four, in which case one apprentice may be entertained for every four clerks on the permanent establishment. No apprentices shall be entertained in a Sub-Registry Office without the previous permission of the Inspector General.

Register of apprentices (Form No. 9, Appendix VI).—(b) The name, father's name, age, and residence of each apprentice, together with the date of his appointment and the nature of his qualifications, shall be recorded in a book to be kept for that purpose, and each entry in this book shall be signed by the head of the office.

(c) Every apprentice should attend the office regularly, and his attendance, together with the work done by him, will be noted daily in the attendance register.

(d) Apprentices will assist the regular establishment in copying and comparing deeds, in writing the duplicate indexes, and in such miscellaneous work as the head of the office considers may be safely entrusted to them.

(e) No apprentice should ordinarily be allowed to remain in a Registration office after he has reached the age of 25 years.

PART II.

Appointments, transfers, leave and casualties of Registering officers.

Power of appointment vested in the Local Government.—18. Under section 8 of the Indian Registration Act, XVI of 1908, all permanent appointments to

the office of Registrar, Sub-Registrar or Joint Sub-Registrar, are made by the Local Government.

Rules of appointment.—19. Appointments to the Registration Department are ordinarily made on the nomination of Commissioners of Divisions.

Grouping of Divisions for purposes of nomination.—(i) For the purposes of such nominations, the divisions are grouped as follows :—

- (a) Presidency and Burdwan Divisions.
- (b) Patna, Bhagalpur and Tirhut Divisions.
- (c) Chota Nagpur Division.
- (d) Orissa Division.

Commissioner to nominate.—(ii) On the occurrence of a vacancy in one of these groups, the Commissioner of the Division, or where there are more than one division in a group, the Commissioner of one of the Divisions, in such rotation as may be fixed by Government, is required by Government to nominate three candidates for the vacancy.

Selection of nominees.—(iii) Ordinarily one of these three nominees will be selected for the appointment; but the Lieutenant-Governor reserves to himself the right of appointing any other person.

Qualifications of candidates.—(iv) Candidates must be under 25 years of age and must ordinarily have passed the F. A. examination of the Calcutta University, or have qualifications declared by Government to be equivalent to that examination. This rule does not preclude Commissioners from nominating persons who have not these qualifications, but who have sufficient knowledge of English for the proper performance of the duties of Sub-Registrar, and whose claims appear for particular reasons to deserve special consideration.

List of candidates not to be maintained.—(v) No list of candidates will in future be kept either in the office of the Inspector-General of Registration or in the Bengal Secretariat, and no notice will be taken of applications for appointment as Sub-Registrar addressed to those offices.

Temporary appointments.—20. Every temporary appointment to the post of a registering officer during his absence otherwise than on inspection duty in the district or casual leave shall be reported to the Inspector-General of Registration for obtaining the sanction of the Local Government.

Outsiders should not be employed.—21. As fifth grade Sub-Registrars are intended for leave vacancies, outsiders shall not, ordinarily, be appointed to fill up leave and other vacancies when a fifth grade Sub-Registrar is available; when a fifth grade Sub-Registrar is not available, Probationer may be appointed.

Temporary appointments of District Sub-Registrars.—22. Fifth grade Sub-Registrars or Probationers should not, ordinarily, be employed in replacing District Sub-Registrars when they go on leave. When the leave applied for by a District Sub-Registrar does not exceed six weeks, Local arrangement has to be made under the rules. In such cases, Registrars will ordinarily have no difficulty in recommending some permanent Sub-Registrar in the district for the temporary vacancy, his place being taken by a fifth grade Sub-Registrar or Probationer. When such an arrangement is found impracticable, a suitable officer may be sent from another district, if timely application is made to the Inspector-General. In cases in which leave may be urgently required and the District Sub-Registrar has to be relieved immediately of his duties, temporary arrangement may be made by the District Registrar to relieve him and a suitable substitute may be asked for by wire, if necessary.

Report of temporary appointments unnecessary, unless some one other than the Sub-Registrar at head quarters is appointed to act.—23. Sub-Registrars at head-quarters of districts having been permanently placed in charge of district registry

offices under section 7, clause 2, temporary appointments need only be reported when some person other than the Sub-Registrar at head-quarters is appointed to perform the duties of the Registrar during his absence.

Transfers of registering officers.—24. As it is undesirable that officers of the Registration Department should be treated differently from similar officers in other Departments of Government service and allowed to remain indefinitely in one station, it has been directed by Government that in the case of Sub-Registrars four years should ordinarily be the period for which an officer will remain in one station. After that period he should be transferred to another station, which should, unless there are special reasons to the contrary, be in the same Division. District Sub-Registrars should, ordinarily, be transferred after five years, though his term may be prolonged in certain cases for special reasons if the District Registrar thinks this necessary in the public interests.

Applications for leave how submitted.—25. Applications for leave shall ordinarily be submitted in accordance with the Civil Service Regulations through the Registrar to the Inspector-General of Registration three months before it is actually required. All such leave shall be reported to Government through the Accountant-General, Bengal, and notified in the *Calcutta Gazette*.

Reasons for leave to be stated.—26. (a) In applying for leave Sub-Registrars should state the reasons for which the leave is required and that when leave is required for marriage or other ceremony, the date on which such ceremony is to take place should be mentioned.

Leave not to be granted in anticipation of sanction. (b) Except in very urgent cases, leave should not, as a rule, be granted in anticipation of sanction, but should be applied for by salaried Sub-Registrars under the Civil Service Regulations and Government order on the applications for leave should be awaited.

Leave of Sub-Registrars paid by commission.—27. Sub-Registrars who are paid by commission are not subject to the Leave Rules of the Civil Service Regulations. In their case the Registrar is competent to grant applications for leave not exceeding one month. All leave exceeding one month and every extension of leave which will prolong the period of absence beyond one month, shall require the sanction of the Inspector-General, to whom all leave granted under this paragraph shall be reported.

Casual leave.—28 The grant of casual leave to registering officers whether paid by fixed salary or by commission, shall be governed by Government Circular No. 2A.D., dated the 26th September 1904. Under this circular, casual leave not exceeding 10 days in a year may be granted by Registrars.

The Registrar's sanction to such leave shall be recorded in a register in Form No. 23, Appendix VI.

Charge reports.—29. (a) Registering officers in giving and receiving charge of their respective offices, shall report the fact to the Inspector-General in Accountant-General, Bengal's Form No. 279.

(b) In the case of Registrars a certificate in Form No. 1, Appendix VIII, should be given on the reverse of Accountant-General, Bengal's Form No. 279.

(c) In the case of Sub-Registrars, charge reports shall be made through the Registrar, with the certificate in Form No. 2, Appendix VIII, given on the reverse of Accountant-General, Bengal's Form No. 279.

(d) Probationers and fifth-grade Sub Registrars leaving their stations on being appointed to act as Sub-Registrars or returning to their stations, shall report the fact in Form No. 3, Appendix VIII, to the Inspector-General through the Registrar.

(e) In cases (c) and (d) copies of the reports shall be submitted direct to the Accountant-General, Bengal, and the Inspector-General in addition to the one sent through the Registrar.

(f) No charge report is required in the case of officers going on casual leave, when no acting arrangement is admissible.

Absence of Sub-Registrars from station.—30. If Sub-Registrars desire to leave their head-quarters on gazetted holidays, they should obtain the permission of the District Registrars.

Return from leave before its expiry.—31. No order of Government is necessary to cancel the unexpired portion of the leave of a registering officer who returns to duty before the expiry of his leave, except when he is on long leave and returns to duty more than 15 days before such expiry. In other cases, it will be sufficient to send a report to the Accountant-General, Bengal, through the Registrar informing him of the date and hour of the officer's return from leave.

Casualties.—32. Deaths and retirements of Sub-Registrars should be reported with dates and hours immediately after their occurrence.

PART III.

DISMISSAL, REDUCTION AND SUSPENSION.

Dismissal, reduction and suspension of registering officers and their establishments.—33. The Government rules regarding the dismissal or reduction of salary of Government servants, printed in Appendix VI, should be followed by all registering officers.

Suspension of Sub-Registrars.—34. Sub-Registrars shall not ordinarily be suspended, in anticipation of the sanction of Government, which is required under section 13 of the Indian Registration Act.

Pleaders, etc., not allowed to appear in departmental enquiries.—35. Except under very special circumstances, no counsel, pleader, mukhtear or agent will be allowed to appear in departmental inquiries, either on behalf of Government or the accused, before the officer who conducts the inquiry.

PART IV.

SOME OF THE POWERS AND DUTIES OF REGISTERING OFFICERS.

Duties delegated to District Sub-Registrars.—36. The offices of Sub-Registrars at the head-quarters of districts have been amalgamated with those of the Registrars under section 7 of the Registration Act. Such Sub-Registrars have been authorised by the Local Government to perform all the duties of a Registrar, with the exception of those laid down in sections 68 and 72. They may, accordingly, receive and register documents under section 30 (1), deal with applications under sections 25 and 34, receive for deposit sealed covers under section 43, deliver and open such covers under sections 44 and 45, forward and receive copies and memoranda under section 66, and deal with applications under section 73 (except when the applications are against their own orders of refusal).

They have no powers of supervision and control under section 68, or of hearing appeals under section 72.

Duties delegated to Sub-Registrar, Calcutta.—37. The office of the Sub-Registrar of Calcutta, has been amalgamated with that of the Registrar of Calcutta under section 7 of the Registration Act and the Sub-Registrar has been authorised by the Local Government to perform all the duties of the Registrar

except those conferred upon the latter by sections 68 and 72 of the Registration Act.

Correspondence.—38. In correspondence, the name as well as the designation of the officer addressing a letter should be mentioned at the top.

When Registrars are at their head quarters they are expected to sign their own letters.

When a Registrar has passed a draft while on tour and the letter itself issues from the head-quarters office, the officer in charge or the Sub-Registrar at head-quarters, as the Registrar may direct, may sign fair copy for "Registrar on tour."

Arrangement of correspondence—39. Correspondence in the District head-quarters offices should be arranged, as far as possible, according to the collections and files mentioned in Appendix VIII.

In Sub-Registry offices correspondence may be arranged in three collections, viz., general, account and statistics.

Ministerial officers forbidden to supply irregular information—40. Registering officers shall take care that their ministerial officers do not supply information to private persons without the requisite search fees having been paid. Any ministerial officer found guilty of supplying information from the records of the office, without the previous sanction of its head, is liable to dismissal.

Access to completed register-book by clerks forbidden.—41. Clerks shall not ordinarily be allowed access to such register-books as have been completed and closed, which shall be kept under lock and key, except when specially given out by the registering officers for the purpose of searches, or for the preparation of copies.

Custody of keys—42. The keys of the almirahs in which records are kept shall not be made over to the clerks, when it is impossible for the registering officer to be present.

Inspection by Registrar.—43. The Registrar is required to inspect every office under him, including the District head-quarters office, at least once a year.

Inspections by District Sub-Registrar.—44. The Sub Registrars in charge of the District head-quarters offices shall ordinarily, inspect each office twice a year. Sub-divisional officers not being officers of the Registration Department are not expected to inspect registration offices unless deputed to do so by the District Registrar.

Form of inspection report.—45. The Sub-Registrars at District head quarters shall use the printed form of inspection report fully and supplement it when necessary. Other officers, deputed by the Registrar to make inspections, may use the printed form as much as possible. Registrars may use them or parts of them, as they please, except at the annual inspection of the District head-quarters office, when the printed form shall be used.

Inspection reports.—46. The District Registrar will forward a copy of his report to the Sub-Registrar concerned, and another copy to the Inspector-General, to whom he will also forward a copy of any explanation submitted by the Sub-Registrar, together with his own remarks thereon.

Inspecting officers subordinate to the District Registrar will send a copy of their report to the Registrar, who will forward a copy for information and guidance or for explanation, where explanation is necessary, to the Sub-Registrar concerned. The Registrar will send a copy of the report, together with his remarks, to the Inspector-General, to whom he will also forward a copy of the explanation, if any, submitted by the Sub-Registrar. A copy of the remarks made by the Inspector-General (or such portion as may be applicable) will be forwarded to the officers concerned. There should be no delay in the submission of these reports, as they lose much of their value unless promptly dealt with.

Inspection reports—how to be kept.—47. In each office the reports of inspection shall be carefully filed in chronological order and the steps taken in regard to the remarks made or orders passed shall be noted in brief in red ink by the registering officer himself against each remark or order. This will enable inspecting officers to judge easily at the time of inspection if the remarks and orders have been attended to.

Surprise visits.—48. It is desirable that the inspecting officers should occasionally visit and inspect offices without previous notice.

Official representations not to be made by Sub-Registrars direct.—49. Sub-Registrars will not make official representations *direct* to the Inspector-General about their transfers, prospects and promotion or for their supposed claims to particular appointments. Such representations are contrary to the standing orders of Government, which provide for the submission of such representations by the local officers at their discretion. All representations by Sub-Registrars shall, therefore, ordinarily be submitted to the District Registrars concerned, who may forward them to the Inspector-General, according to their discretion. Representations submitted direct to the Inspector-General may not receive any consideration.

Cancellation of stamps.—50. All registering officers should attend to Board's rules regarding the cancellation of stamps used under the Court Fees Act, VII of 1870, contained in paragraphs 1, 2 and 3, Part I, section II, page 53 of the Stamp Manual of 1902. The registering officer shall be held personally responsible for the due cancellation of such stamp.

Inspectors of Registration offices and District Sub-Registrars, while inspecting Sub-Registry offices, shall examine applications with a view to see that court-fee stamps have been duly affixed and punched and note their having done so in the inspection reports.

Explanation of deeds to illiterate executors.—51. Registering officers should advise all executors, who cannot read or write, to have their documents explained to them by the writers or witnesses thereof, who should certify on the deeds as follows :—

Explained to	{ by me. Writer. Witness.

Registration, however, cannot and should not be refused for want of such a certificate in any document.

Checking of index entries and comparison of copies by Sub-Registrars.—52. Every Sub-Registrar should, from time to time, compare copies in register books with the original documents, check the work of indexing, and note in the attendance register the serial numbers of the documents which are compared, or of which the index entries are checked.

Fees to be paid into Treasury promptly.—53. All fees, including fines realized, except travelling allowance, shall be paid without any unnecessary delay into the nearest treasury or sub-treasury. Registering officers shall be held personally responsible for the safe custody of the fees until they are paid into the treasury or sub-treasury, as the case may be.

The fees shall be remitted daily to the treasury or sub-treasury from District and Sub-divisional offices.

The fees from other offices shall be remitted to the treasury or sub-treasury by money-order every week or at such shorter intervals as the Registrar may direct. The details of the fees remitted shall be carefully given in the money-order coupons.

Acknowledgment of fees by District Sub-Registrars.—54. The District Sub-Registrars shall on receipt from the treasury of the money-order coupons and

acknowledgments with the advice lists, retain the coupons and forward the acknowledgments to the Sub-Registrars concerned after comparing them with the advice lists and signing them.

Examination of records when taking over charge of an office.—55. Registering officers should not treat the certificates prescribed in Form No. 2, Appendix VIII, as a matter of mere form and the officer relieving another incurs a serious responsibility in signing a charge certificate without proper check. Any discrepancies which may be found, in the course of taking charge, between the catalogue and the fee-book on one hand, and the existing records on the other, should be promptly brought to the notice of the Registrar by the relieving officer, and the responsibility for the discrepancies should be fixed as soon as practicable. If any books and documents are found in the office which are not entered in the catalogue, and the fee-book, respectively, or if any books and documents are found entered in the catalogue and the fee book, respectively, but are not found in the office, the officer making over charge should be called on to explain the discrepancies before he leaves the district, and his explanation, together with the Registrar's remarks thereon, should be forwarded with the charge report. On receipt of the report about discrepancies, the Sub-Registrar at head-quarters may, if necessary, be directed to proceed to the spot, and hold an inquiry before the charge sheets are forwarded to this office.

PART V.

SERVICE-BOOKS.

Service-books.—56. A service-book in the form prescribed by the Civil Service Regulations shall be kept up for all ministerial and menial officers paid by Government.

57. Some provisions of the Civil Service Regulations regarding service-books are mentioned below :—

Article 818.—A service-book is supplied, at his own cost, to every officer on his first appointment. It is kept in the custody of the head of the office in which he is serving and transferred with him from office to office. It may be given up to the officer if he resigns or is discharged without fault, an entry being first made therein to this effect.

Responsibility for entries.—*Article 819.*—It is the duty of every officer to see that his service-book is properly kept up and that all erasures in it are properly attested. If the book is not properly kept up, difficulties may arise as to verification of service, when the officer applies for pension.

Article 820.—Personal certificates of character should not, unless the Local Government so directs be entered in column 13 of the service book.

But if, an officer is reduced to a lower substantive appointment, the cause of the reduction should always be briefly stated thus—"reduced for inefficiency,"—"reduced owing to revision of establishment," etc.

Article 821.—Every period of suspension from employment and every other interruption in service should be noted, with full details of its duration, by an entry written across the page and attested by the head of the office or other attesting officer.

Note:—The head of the office should take efficient measures to see that these entries are made with regularity. The duty should not be left to the non-gazetted officer concerned.

PART VI.

SECURITY BONDS.

Security bonds of Head Clerk and Record-keepers.—58. (i) Head clerks of all registration officers and record-keepers of all Registrars' offices shall furnish security in the amounts of Rs 100 and Rs. 500 respectively and execute bonds for the due performance of their duties. A single surety will in general be sufficient, if he is a man of substance.

Form of the bonds.—(ii) The bonds shall be in the form prescribed by the rules regarding security bonds to be taken from public officers. They shall be registered and deposited for safe custody in the Registrar's office.

Examination of security bonds.—(iii) The security bonds of ministerial officers shall be examined at the close of each financial year and if the Registrar finds that a fresh bond should be executed, he will report the case to the Inspector-General.

(iv) The practice of one officer standing security for another in the same office is forbidden.

Change of status of sureties to be reported.—59. It is obligatory on all officers of the Registration Department on whose behalf security bonds are furnished, to report without loss of time, any change in the status of their sureties which is calculated to render their security invalid or insufficient.

Bonds of peons.—60. The peons of all registration offices who are entrusted with carrying money to the treasury, sub-treasury, or the post office, as the case may be, shall execute security bonds for good and honest conduct in the sum of Rs. 50 in such form as the Registrar may prescribe.

These bonds shall be registered and deposited for safe custody in the Registrar's office.

31. When a memorandum is endorsed on the registered security bond of a non-gazetted officer, giving particulars of additional security demanded, and the deed is presented for fresh registration, the following procedure will be observed.

The registering officer will make a note on the copy of the original document kept in his office that it has been so modified. In the copy of the addition to be kept in the registration office, it will be noted that it is an addition made to the original document, the number and year of which should be mentioned.

PART VII.

PERMANENT ADVANCE AND CONTINGENCIES.

Permanent advance of Registrars.—62. A permanent advance will be allowed to each Registrar to meet temporarily expenditure on account of (1) contract contingencies, (2) service postage and (3) refunds. The Registrar will apportion the amount drawn, according to the requirements of each subordinate office, taking care that a sum is allowed sufficient to meet charges for contract contingencies and refunds. Service postage stamps shall be supplied to Sub-Registrars from the Registrar's office.

Permanent advances of Subdivisional officers who are ex-officio Sub-Registrars.—Sub-divisional officers who are *ex-officio* Sub-Registrars shall not receive a permanent advance from the Registrar. The permanent advance which they receive as Sub-divisional Magistrates shall be used for all contingencies, including those of the Sub-Registry offices at sub-divisional head-quarters in their charge.

Acknowledgment of permanent advance to Accountant-General Bengal.—63. On the 15th of April each year, the Registrars will send an acknowledgment of the entire advance to the Accountant-General, Bengal, in the printed form supplied by him.

Permanent advance of Sub-Registrars.—64. The advance received by a Sub-Registrar will not be repaid into the treasury but shall be recouped from time to time, when necessary, by the submission to the Registrar of bills with needful vouchers. On the first office day after 1st April of each year, the Sub-Registrar receiving the advance will forward an acknowledgment of its receipt to the District Registrar in such form as he may require.

Rules regarding contingent charges.—65. The rules regulating contingent charges as contained in Chapter VI of the Bengal Treasury Manual and the Civil Account Code, 1906, volume I, shall be followed in regard to each expenditure. Some of these rules are given below :—

(i) The disbursing officer shall be responsible for keeping and reproducing, when required, any sub-vouchers of his expenditure under contract contingencies except those which he is authorized to destroy under Article 88 of the Civil Account Code.

Contingencies.—(ii) Contingent charges have been divided into three classes, viz. :—

- (A) Regular contingencies.
- (B) Special ditto.
- (C) Contract ditto.

Regular contingencies.—(iii) (a) Regular contingencies are those which are incurred by disbursing officers as the occasion for them arises, in accordance with fixed scales, without sanction of superior authority, such as municipal rates and taxes and office and ground rents.

Register of regular contingencies.—(b) Regular contingent charges, when incurred, should be entered in a separate register in the form prescribed by article 80, Chapter VI of the Civil Account Code.

Regular contingent charges how drawn.—(c) The charges should be drawn from the treasury in detailed bills in Accountant General, Bengal's Form No. 310, supported by the usual sub-vouchers for sums in excess of Rs. 10, and bearing the certificate of expenditure prescribed by article 88, Chapter VI of the Civil Account Code, which is printed on the form of the bill.

Municipal rates and taxes.—(d) Municipal rates and taxes are payable according to the rates assessed by the municipality. When the amount exceeds Rs. 50 it should not be paid in cash but a contingent bill duly drawn up and endorsed should be made over to the municipality in discharge of their claim.

Items below Rs. 50 may be paid in cash and the original receipts of the municipality should be attached as sub-vouchers to the bills when the charges are drawn.

Assessment of registration buildings to municipal rates—(e) Whenever a new building is assessed or when an old assessment is altered, the first charge on this account should be supported by certificate from,—

- (1) where the building is at head-quarters and is in charge of an Executive Engineer, the Executive Engineer ;
- (2) in the case of a Public Works building the maintenance of which has been made over to the District Board, the Superintending Engineer or Inspector of Works ;

- (3) where the building is at head-quarters and is neither under the charge of the Public Works Department nor of the District Board, the local representative of the Department who may be in charge of the building, but his certificate must be countersigned by the Magistrate;
- (4) where the building is at a sub-divisional head-quarters, the Sub-divisional officer, provided he certifies that he has given the Superintending Engineer or Inspector of Works notice of the assessment or revision of assessment and that he has no objection;
- (5) in the case of buildings in the interior, the District officer for those within the sadar sub-division and the Sub-divisional officer for those within his sub-division.

NOTE.—Heads of Departments are competent to sanction the tax on the understanding that the assessment is first attested by the Executive Engineer or Departmental officer concerned, as the case may be.

Municipal rates and taxes not separately tenable on registration offices located in collectorate buildings.—(f) in the case of a registration office occupying one or more rooms in the collectorate building, such office is not liable to be assessed separately to municipal rates and taxes.

Special contingencies.—(iv) Special contingencies are those which cannot be incurred without the sanction of the controlling officer or of Government previously obtained, some items are mentioned below :—

Supplies and Services—

- (i) Record-room racks.

Contingencies—

- (ii) Purchase of books and publications.
- (iii) Other items of large amount and unusual character.

NOTE.—Sanction of Government is required in all cases of purchase of books and publications whatever the amount of the charge.

Special contingent bills how drawn.—(a) The money required for special contingencies will be drawn upon separate detailed bills in Accountant-General, Bengal's Form No. 310, the authority sanctioning the contingencies and the sub-vouchers for sums exceeding Rs. 10 being attached to them with the certificate prescribed in article 88 of the Civil Account Code. If the amount sanctioned be drawn in more than one detailed bill, the sanction should be attached to the first bill, and in subsequent bills, a reference should be made to the bill with which the sanction was submitted.

Contract contingencies.—(v) (a) Contract contingencies are those for which a lump sum is allotted annually to each officer within which he can incur expenditure without any further sanction. Some of the charges included under contract contingencies are mentioned below :—

Supplies and Services—

- (1) Petty construction and repairs.
- (2) Country stationery.
- (3) Remittance of treasure (within district).

Contingencies—

- (4) Hot and cold weather charges.
- (5) Purchase and repairs to furniture.
- (6) Service postage.
- (7) Service telegrams.
- (8) Office expenses.
- (9) Miscellaneous.

(b) The purchase locally of ink and pencil erasers, ink-stands, ink, pens, gum-bottles, etc., is prohibited, as such articles are supplied by the Stationery Office, but charges for petty articles such as paste, thread, country-paper, etc., may be incurred and included in the monthly contingent bill.

(c) Any allowance paid to sweepers, not exceeding Rs. 2 a month in the Bihar districts and not exceeding Rs. 3 in other districts, may be classified under this head. Allowances in excess must be drawn on establishment bills.

Contract contingent bills how drawn.—(d) Contract contingent charges will be drawn in District head-quarters offices upon bills in Form No. 308, prescribed by the Accountant-General, Bengal. No charges shall be entered in any contingent bill for any postage label but service postage labels or for any telegrams other than State telegrams. The postage charges must be supported by the treasury receipts for the money, which should always be given upon a printed form entirely filled up by the treasury and signed by the Treasury Officer.

The disbursing officer, in preparing his bill, should be careful to bring forward from the last bill, the correct amount of the total expenditure up to date in his register of contingencies, so that he may not exceed the limit of his grant.

Recoupment of the permanent advance spent on account of contract contingencies.—(e) To recoup the amounts spent by Sub-Registrars on account of contract contingencies from their permanent advance they shall submit bills on plain paper to the District Registrar with the necessary vouchers. The Registrar will examine the bills and the vouchers carefully and cancel the latter so that they may not be used again. If, he finds the bills to be in order, he will remit by money order the amounts of the bills from his permanent advance to the Sub-Registrars concerned. The Registrar will recoup his permanent advance from time to time, by preparing in his office a consolidated bill in Accountant-General, Bengal's Form No. 308 and cashing it at the treasury.

Responsibility for sub-vouchers of contingencies.—(vi) The disbursing officer shall be responsible for keeping and reproducing, when required, any sub-vouchers of his expenditure under contract contingencies except those which he is authorized to destroy under article 88 of the Civil Account Code.

Bill-book. (Form No. 20, Appendix VI).—(vii) All bills received from the Sub-Registrars shall be entered in the bill-book required to be kept in the head-quarters office and the steps taken in regard to them, should be recorded in the same.

Contingent grant not to be exceeded.—(viii) No officer may, without previously obtaining an extra grant, incur expenditure in excess of the amount provided for contingent charges; and when an officer exceeds the annual grant, he may, under orders of Government, be held responsible for the excess.

PART VIII.

REFUNDS AND REGISTER OF REFUNDS.

Refunds allowed on refusal of registration.—66. Registration fees may be refunded by a registering officer when he refuses to register a document after accepting it for registration. All documents upon which a refund is due should be entered in the register prescribed (Form No. 7, Appendix VI). *Register of refunds.*—If, however, any fees become due under article P of the Table of Fees, in consequence of the document remaining unclaimed for more than a month after refusal of registration, the amount of such fees shall be deducted from the amount of registration fees to be refunded.

Refundable landlords' fees to be entered.—Landlords' fees which are refundable, should be entered in the register of refunds in the same manner as registration fees,

Expiry of the period of appeal or application to be awaited before refund.—67. When the registration of a document is refused, the fees levied, including fines under sections 25 and 34, if any, shall not be refunded until the period allowed for appeal under section 72 or for an application under section 73 is over. They will be refunded when such period is over and no appeal or application is made.

When, however, an appeal is filed under section 72 or an application is made under section 73, the fees together with fines, if any, should be refunded only in the case in which the Registrar upholds the order of refusal. If the Registrar reverses the order of refusal no refunds will be necessary.

Refunds of commission fees.—68. Fees for commission or visit and travelling allowances may be refunded if the application for the commission or visit be withdrawn before the visit is paid or the commission is executed.

Refund of fees levied under article N, etc.—69. Refunds may, similarly, be made of fees levied in excess under article N, or by Sub-Registrar's mistake under any other article.

Period within which refunds may be granted.—70. No refund may be granted when a period of three years has elapsed since the deposit of the fees or when the document has been destroyed under section 85 of the Act. In the list of unreturned documents submitted for sanction to their destruction the amount of refund due on each document shall be noted in the column of remarks for the orders of the Inspector-General to write it off. Other refunds liable to be written off should be shown in a separate list (Form No. 24, Appendix VI).

Mode of making refund by District Sub-Registrars.—71. Refunds at the District head-quarters office shall be made at once out of the Registrar's permanent advance on the production of the receipts granted under section 52. Bills for refunds, which should be drawn in Accountant-General, Bengal's Form No. 293, do not require the Inspector-General's countersignature.

Mode of making refund by Sub-Registrars.—72. Sub-Registrars will make refunds of fees out of the permanent advances received by them from the District Registrars.

To recoup the amounts disbursed by them as refunds, they should submit bills in Accountant-General, Bengal's Form No. 293, with the payee's receipts as vouchers to the District Registrar after carefully filling up columns 1 to 5 and signing the certificate in column 10 of the Form. The Registrar on receiving the bills, with the vouchers, will examine carefully if they are in order and then cancel the vouchers so that they may not be used again. If the bills are found to be in order, the Registrar will in the cases of Sub-Registrars other than those at the head-quarters of sub-divisions remit by money-order the amounts of the bills from his permanent advance to the Sub-Registrars concerned, and after passing their bills for payment cash them at the treasury. He will thus recoup his own permanent advance.

In the cases of Sub-Registrars at the head-quarters of sub-divisions their bills in Form No. 293, after being duly passed by the Registrar and encased in the treasury for payment at the sub-treasury concerned, shall be returned to the Sub-Registrars for encashment.

Sub-Registrars should invariably note every refund made by them against the original entry of receipt in the fee-book, so that they may be in a position to sign the certificate in column 10 of the refund bill.

Annual statement in the Register of refunds.—73. In order that the balance of refundable fees on account of refused documents, of fees levied in excess and of fees refundable under Articles J and K of the table of fees, may be ascertained and checked with the returns, all registering officers should show in the Register of refunds, at the close of each year, in red ink, the total balance of refundable fees in the form given below ;—

- (a) Balance of refundable fees on refused documents of previous years.
- (b) Refundable fees on refused documents levied in the current year.
- (c) Total.
- (d) Deduct amount refunded during the current year on account of fees on refused documents.
- (e) Deduct amount written off during the year (quoting Inspector-General's order sanctioning the writing off of the fees).
- (f) Balance.

Similar entries should also be made separately in regard to (i) the fees levied in excess, (ii) the fees refundable under Articles J and K, and (iii) the landlords' fees which are refundable.

PART IX.

INDENTS.

Rules of indent.—74. Special attention should be paid by all registering officers who have to submit indents for printed forms, to the Board's rules regarding their supply and custody.

Sub-Registrar's indent for books and forms.—75. On such date before the 15th May of each year, as the Registrar may direct, every Sub-Registrar shall submit to him an indent with an invoice sheet in the prescribed forms for all register-books and other registration forms which will be required in his office during the year beginning with the 1st February following and ending with 31st January.

Registrar's indent for books and forms.—76. Every Registrar shall submit to the Inspector-General, on or before the 1st June of each year, an indent with an invoice sheet in the prescribed forms, for all register books and other registration forms, including the forms prescribed by the Accountant-General, which will be required for his own office and for those of the Sub-Registrars subordinate to him, during 12 months, from the 1st February to the 31st January following. When it is desired that the supply of register-books, etc., should be forwarded to any Sub-Registry office direct, instead of being sent through the office of the Registrar to whom the Sub-Registrar is subordinate, an intimation to that effect should accompany the Registrar's indent, and the indents of such Sub-Registrars should be submitted separately, with the Registrar's endorsement instead of being embodied in the Registrar's indent. A supply of new register-books required to be opened on the 1st January of each year, should be included in this annual indent. The indents together with the invoice sheets will be forwarded by the Inspector-General to the Assistant Manager of Forms, Bengal, after being checked and countersigned, by the 1st of August.

Sub-Registrar's indent for stationery.—77. On such date before the 1st of June each year, as the Registrar may direct, every Sub-Registrar shall submit to him an indent in the prescribed form, for stationery which will be required in his office during the year beginning with 1st of October following and ending with 30th of September.

Small envelopes for demi-official correspondence are to be included in the indent for stationery.

Registrar's indent for stationery.—78. Not later than the 1st July in each year, Registrars shall send to the Inspector General a consolidated indent for stationery with invoice sheets in the prescribed forms, for the whole district.

Indents for rubber stamps.—79. Indents for rubber stamps and seals shall be submitted in duplicate in the prescribed printed form with samples in duplicate to the Controller of Printing, Stationery and Stamps, through the Inspector-General of Registration. The date of the last supply, if any, should be mentioned

in the column of remarks and the certificate at the foot of the form should be carefully filled up.

Indent for envelopes other than small envelopes for demi-official correspondence.—80 (a). A consolidated indent list for envelopes has been introduced and all envelopes have been excluded from the departmental indent lists of forms.

(b) Registering officers who may use and require any of the envelopes included in the consolidated indent list should submit an indent for each indent year, commencing on 1st November and ending on 31st October following, to the office of the Inspector General of Registration on or before the 1st April of each year. This indent is to reach the Forms Department on or before the 1st of May each year.

(c) The franking space on each of the envelopes included in the revised list will be blank. Each indenting officer should obtain an indent through the Inspector-General of Registration from the Controller of Stationery, Calcutta, the required number of rubber stamps for the insertion of the necessary details in the franking space.

Register of receipts and expenditure of forms, etc., and the stock-book of stationery.—81. The register of receipts and issues of printed forms (Form No. 14, Appendix VI) should be correctly kept and the registering officers should initial the balance as soon as issues are made. The stock-book of stationery (Form No. 13, Appendix VI) should be written up carefully according to the instructions given in the printed forms.

Register of receipts and issues of printed forms and stock-book of stationery should be kept by some particular clerk.—82. Each indenting officer should appoint some particular clerk in his office to be in charge of printed forms, registers and stationery. This clerk will be responsible for keeping up the register of receipt and issue of printed forms and the stock-book of stationery.

PART X.

TRAVELLING ALLOWANCE.

Travelling allowance bills of registering officers and their establishments.—83. Bills for travelling allowance of registering officers and of their ministerial establishments shall be drawn in Accountant General, Bengal's Forms Nos. 303 and 304, respectively. They will be submitted to the District Registrar for countersignature before payment, for whatever purposes the journeys may be made.

Travelling allowances of ministerial officers deputed to give evidence.—84. When ministerial officers of the Department are deputed to give evidence or to produce records before any Court, applications for the payment of their travelling allowances should be made to the Registrar of the district.

Duplicate bills.—85. A duplicate bill should never be submitted unless the original is lost in transit or otherwise, in which case a certificate should be attached to the effect that the bill has not been cashed at the treasury.

Allowances of salaried officers summoned as witnesses.—86. Allowances to officers paid by fixed salaries, who may be required to appear as witnesses before a Judicial officer, will be governed by articles 1133 and 1134 of the Civil Service Regulations, 4th edition, 1902, extracts from which are given below :—

Article 1133, Civil Service Regulations.—An officer summoned to give evidence of facts which have come to his knowledge, or of matters with which he has had to deal in his public capacity either—

- (i) in a criminal case (including a case before a court-martial) or
- (ii) in a civil case to which Government is a party, may draw travelling allowance under the rules for journeys on tour.

[NOTE.—An officer on leave summoned to give evidence of the kind contemplated in this article, is entitled to travelling allowance under this article from and to the place from which he is summoned as if he were on duty.]

(a) an officer summoned to give evidence under other circumstances is not entitled, by reason of his being an officer of Government, to any allowances other than those admissible by the rules of the court ;

Allowances of Sub-Registrars paid by commission summoned as witnesses.—

(b) Professional allowance to Sub-Registrars may be calculated on the following scale :—

When the presentations are from 1 to 1,000 per annum. 1 per diem

Ditto	ditto	2,501	„	5,000 and upwards, 3	„	„
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Sub-Registrars paid by commission not entitled to travelling allowance for local enquiries.—88. No travelling allowance for journeys made on local inquiries, is admissible to Sub-Registrars paid by commission. Such Sub-Registrars, should not, therefore, ordinarily be employed in making such inquiries away from their

REGISTERS AND OTHER RECORDS.

Register of immovable property of Sub-Registrars—90. A register of immovable property owned by salaried Sub-Registrars is kept in the office of the Inspector-General.

Registers A, B and C.—91. Registers A, B and C in Forms Nos. 26, 27 and 28, Appendix VI, should be accurately written up in all registration offices

showing the required particulars of transfers of lands by registered deeds of sale, gift and usufructuary mortgage. Separate entries in the registers should be made under the following classes of tenures, and for this purpose, a sufficient number of pages in each register should be set apart for the entries relating to each class or sub-class of tenure :—

- (1) Estates paying revenue to Government—
 - (a) Rs. 5,000 and above ;
 - (b) below Rs. 5,000.
- (2) Estates not paying revenue to Government.
- (3) Intermediate tenures—
 - (a) Permanent—
 - (i) Patni tenures.
 - (ii) Others.
 - (b) Temporary.
- (4) Raiyati holdings—
 - (a) holdings at fixed rates ;
 - (b) occupancy holdings not at fixed rates ;
 - (c) others.

Method of filling up Registers A, B and C.—92. The following instructions should be followed in writing up the above registers :—

- (a) The standard of measurement prescribed for each thana in the Sub-Registrar's jurisdiction as supplied by the Director of Land Records, Bengal, should be noted on the first page of each register.
- (b) When the lands transferred are situated in more than one thana, the area in local measure situated in each thana should, if possible, be noted in the columns of remarks (columns 6 and 12), but if separate figures are not available, conversion may be made according to the standard prescribed for the thana in which the bulk of the area is believed to exist.
- (a) When a deed is presented for registration describing the lands to be transferred by boundaries without specification of area, the parties to registration should be asked the area of the land. The area given by them may be accepted and converted by means of the tables, a note being made in the column of remarks against each such case to show that the area has been ascertained by interrogation. It should be borne in mind that the parties should not be *pressed* to state the area.

If, for any reason, the area of the tenure transferred cannot be ascertained, the number only of such tenures (separate figures for each kind) should be given in the column of remarks of the appropriate register and in a footnote to the Return (Statement D), together, if practicable, with a rough estimate or even a guess of the total area, as desired by Government.

- (d) The work of conversion of areas given in the deeds, from local to standard measure as supplied by the Director of Land Records, Bengal, should be carefully supervised by the Sub-Registrars and each entry in the registers should be initialled in the column of remarks by the Sub-Registrar after it has been checked by him.
- (e) The "serial number" in column 1 of the registers will run for the whole financial year, separately for each class or sub-class of tenure, and one serial number should be given to each document registered and not according to the number of tenures which may be transferred by a document.

- (f) The "date of registration" in columns 2 and 8 of the registers is the date on which registration of the document is completed.
- (g) It is intended that the Registers A, B and C maintained in an office will contain the details of lands situated only in the jurisdiction of that office. The registering officer is, therefore, not only to examine the deeds registered by him but also the copies and memoranda, as the case may be, which are forwarded to him under the law, containing the details of the lands situated in his jurisdiction, which are transferred by deeds registered in other sub-districts. No serial number should be given to entries made from copies or memoranda received from other offices.
- (h) In the column of "remarks" in Registers A, B and C, the number of the deed in the register-book in which it is copied as well as the number of the volume, or the number of the copy or memorandum, as the case may be, should be given in each case for facility of reference.

Register of pending documents.—93. A register of documents pending admission to registration shall be kept in each office in Form No. 6 in Appendix VI. Columns 1 to 7 will be posted up at the close of each day, the requisite particulars being extracted from the fee-book. Every deed on which the second endorsement is not fully recorded on the date of presentation should be entered in the register of pending documents, and in each case the reason why the deed is pending should be noted. This order does not, of course, apply to documents of which registration is at once refused, or to documents returned to the parties under Rule 42. When the document is finally admitted to registration, columns 8 and 9 will be filled in, the requisite entry being also made in the fee-book. If, on the other hand, registration is refused, the date will be entered in column 10, and column 11 will be filled up when the fee is refunded.

PART XII.

APPEALS UNDER SECTION 72, APPLICATIONS UNDER SECTION 73 AND INQUIRIES UNDER SECTION 74.

Court-fee stamps to be levied on applications under section 73 and appeals under section 72.—94. Court-fee stamps are to be levied on applications under section 73 of the Indian Registration Act, under article I (b) of Schedule II of the Court Fees Act. A memorandum of appeal under section 72 of the Registration Act is chargeable with court-fee stamp of eight annas only under article 11, schedule II, of the same Act.

Mode of recording evidence in inquiries under section 74.—95. In inquiries under section 74, Registrars shall, if they require the attendance of witnesses, record their evidence in the manner provided in the Code of Civil Procedure, 1908.

Recording of evidence under sections 72 and 73.—96. It is illegal to have the evidence recorded by a Deputy Magistrate in an inquiry under section 72, or to order the Sub-Registrar at head-quarters of a district to record evidence in a case under section 73, arising out of an order or refusal made by the Sub-Registrar himself.

Limitation for application under section 73 where denial is made on different dates.—97. Where there are several executants and denial of execution is made on different dates, the periods of limitation for application under section 73 should be calculated from each order of refusal.

Costs under section 75.—98.—Costs decreed under section 75 shall be recovered by the Collectorate establishment acting under the orders of the Registrar. Care should be taken to use the title of Registrar in the processes issued in such

The costs shall be paid into the treasury as revenue deposits when realized.

Application under sections 73 and 74 to be promptly disposed of.—99. The Sub-Registrars at the head quarters of a district should bear in mind the desirability of promptly disposing of cases under sections 73 and 74 of the Indian Registration Act. The question at issue, in these cases, is whether the document has been executed by certain persons and to determine this, witnesses should be examined and other evidence, if any, produced by the claimant, should be taken without delay, after giving notice of the case to the opposite party. The inquiring officer is bound by law (section 75 of the Registration Act) to come to a decision as to the question of execution and should, without unnecessary delay, either order registration of the document or refuse such registration. Numerous adjournments on inadequate grounds without coming to a decision as to whether or not the document was executed by the party by whom it is alleged to have been executed are objectionable and inspecting officers will examine the records under sections 73 and 74 carefully in order to see whether unnecessary delays are made in their disposal of these cases.

Copies of Registrar's reasons for refusal to be stamped.—100. Copies of the Registrar's reasons for refusal under section 76 should, under Schedule I, Article 6 of the Court-fees Act, bear a stamp of the value of 4 annas if the subject-matter is Rs. 50 or less, and of 8 annas if it exceeds Rs. 50. Fees under Article G of the Table of Fees should also be levied on such copies.

Copies of Sub-Registrar's reason for refusal should be given without payment according to section 71 (1) of the Registration Act.

Time required for obtaining a copy of reasons for refusal should not be excluded.—101. The time required for obtaining a copy of the reasons for refusal should not be excluded in computing the period of thirty days within which a person may apply to the Registrar under sections 72 and 73 of the Registration Act to establish his right to have a document registered.

Simple non-appearance.—102. On appeal under section 72 against an order refusing registration for simple non-appearance, the Registrar can only inquire into the fact of non-appearance within the prescribed time. He cannot take external evidence of the fact of execution as he can in an application under section 73.

PART XIII.

PERIODICAL RETURNS AND REPORTS.

Returns.

103. (a) The following returns are to be submitted quarterly by District Registrars to the Inspector-General :—

Return A—Consisting of Statements A to D.

Return B—Consisting of Statements E to H

Return C—Statement M.

Return E—Consisting of Statement P.

Return F—Consisting of Statement Q.

Return G—Consisting of Statements R and S.

(b) These returns are to be submitted not later than the 15th of the month following the quarter to which they relate. The District Sub-Registrars will be held responsible for their correct preparation and punctual submission.

104 (a). The following returns are to be submitted by Sub-Registrars to District Registrars :—

Return No. 1—Consisting of Statements 1 to 7.

Statements 1, 2, 3 and 4—Correspond to Statements A to D of Return A.

Statements 5, 6 and 7—Correspond to Statements E, F and G of Return B.

Return No. 2—Consisting of Statements 10 and 11. They correspond to Statement M of Return C and Statement H of Return B respectively.

Return No. 3.—Consisting of Statement 12, which corresponds to Statement P of Return E.

Return No. 4.—Consisting of Statement 13, which corresponds to Statement Q. of Return F.

Return No. 5.—Consisting of Statements 14 and 15 which correspond to Statements R and S of Return G.

(b) These returns should be submitted monthly or quarterly *as the Registrar may direct*, not later than the second of the month, following the month or quarter as the case may, be to which they relate. The Sub-Registrars should personally supervise the preparation of the returns and they will be held responsible for their correct preparation and punctual submission to the Registrar.

Rough drafts—how to fill up.—105(a). For the preparation of the returns, forms of rough drafts have been prescribed corresponding to the returns. These rough drafts should be filled up daily at the close of the day's work, carefully scrutinized by the registering officers and signed by them.

(b) Only documents which have been registered should be shown in the rough drafts for Statements A or 1, C or 3, M or 10, R or 14 and S or 15 in the corresponding Statements 1 and 3 of return 1, Statement 10, Return 2, and Statements 14 and 15 of Return 5, and in Statements A and C of Return A, Statement M, Return C, and Statements R and S of Return G. The word "registered" should be understood as explained in section 60 of the Registration Act read with section 61. Deeds pending registration in any month or quarter, but subsequently registered, should be shown in the statements mentioned above for that month or quarter in which they are registered.

Return A.

Sale certificates registered—how to be shown.—106. (a) Sale certificates which may be registered in the ordinary way, should be included with sales and shown under heading 3, 5 or 17 of Statement A, as the case may be. Fees for their registration should be charged on the *ad valorem* scale.

Certified copies of decrees and orders of Court registered—how to be shown.—(b) Certified copies of decrees or order of Court, which may be registered in the ordinary way, should be shown in column 29 of Statement A, if they relate to immovable property, and in column 39, if they relate to moveable property. Fees for their registration should be charged under article E of the Table of fees. The number of documents included in column 39 on which fees under Article E are levied should be noted at foot of the statement.

Transfers of leases registered—how to be shown.—(c) When "transfers of leases" are registered, the number and fees are to be shown under the headings "other instruments registered," i.e., in column 9 and 10 or columns 23 and 24, as the case may be. And the value is to be shown either in column 5 or 14 of Statement C, as the case may be.

Security bonds registered—how to be shown.—(d) Security bonds should be shown under head "All other documents registered in columns 39 and 22 of Statements A and C respectively."

Wills registered—how to be shown—(e) Only wills registered should be shown in column 43 of Statement A. *Sealed cover opened or removed to Court—how to be shown*—When a sealed cover containing a will is opened and its contents copied in Book No. 3 or when it is removed to Court as provided for in section 46 of the Registration Act, the will should not be shown in column 43 but should be shown in column 3 or 4 of Statement D, as the case may be.

Fees under articles M and N to be added to the registration fees and shown in Statement A or 1.—(f) Fees (under article M of the Table of Fees) for copies or memoranda of documents, which are to be forwarded to another registration office, under sections 64-67 of the Indian Registration Act, and extra fees under article

N levied for copying lengthy documents in the register-books, should be regarded as partaking of the nature of extra registration fees and shown in the columns of Statement A or 1 and of the corresponding rough draft, according to the class of instruments registered, e.g., if the *ad valorem* fees for the registration of a deed of sale be Rs. 5 and Re. 1 be levied on the same as fee under article M of the Table of Fees and annas 8 be levied under article N of the same table, the total fees to be shown in column 3 (i.e., in the column for deeds of sale), of the rough draft for Statement A or 1 should be Rs. 6-8.

Value how to be shown in the case of patta and kabuliya presented together.

(g) When a *patta* and *kabuliya* relating to the same land are registered together, they should be considered as relating to one transaction and the value, i.e., the annual rent, should be shown once only in Return A, Statement C.

Return B.

Statement F of Return B—what figures are to be shown.—107. (a) *Ad-valorem* fees levied on all documents presented for registration (and not only on those which are registered) should be shown in the rough draft for Statement F or 6, in Statement 6 of Return I and in Statement F of Return B. These are intended to exhibit the details of the *ad-valorem* fees included in the rough draft for Statement E or 5, in Statement 5 of Return I and in Statement E of Return B, in which fees realized on all documents presented for registration are to be shown.

Landlords' fees, to be included in Statement H of Return B.—(b) In Statement H, besides the registration fees the landlord's fees which have been refunded and their balance should be shown separately in red ink.

Reconciliation of Departmental figures of receipts and expenditure with those of the Accountant-General, Bengal.—108. To reconcile district figures of receipts and expenditure with the figures recorded in the accounts of the Accountant-General, Bengal, the following procedure, prescribed by the Accountant-General, should be followed :—

Accountant-General, Bengal's form A.—(i) Each Sub-Registry office will send to the Registrar of the district a quarterly statement in Form A, Appendix VII, showing the amounts remitted to or drawn from the Sadar treasury or sub-treasury during the quarter. The due date of despatch of the statement will be the 2nd of the month following the quarter.

Accountant-General Bengal's form B.—(ii) The district Registrar will collect these statements appertaining to his district and incorporate their figures in the district statement in Form B, Appendix VII, after ascertaining from the Sadar treasury the number and date of the vouchers on which the different payments have been made, and the dates up to which the transactions of the different sub-treasuries have been included in the Sadar treasury accounts. These incorporated statements will be submitted to the Accountant-General, Bengal, by the middle of the month following the quarter.

(iii) The figures of the statements will then be verified with the accounts of Accountant-General's office and necessary corrections made in red ink with reasons given on the reverse of the statement, which will be returned to the District Registrar by the end of the month. If the Registrar do not acquiesce in the corrections made, he should return the statement, giving reasons thereon.

Certificate of the Registrar on Form B that the account has been verified.—(iv) When the figures have been ultimately verified, the Registrar will communicate them to the Inspector-General of Registration in the appropriate form, with a certificate that the figures have been

verified by the Accountant-General. These verified figures will be adopted for the Inspector-General's administration report.

Preparation and checking of Accountant-General, Bengal's Forms A and B.—

109. The following instructions will be observed with regard to the preparation and checking of Forms A and B mentioned above:—

- (i) In Form B, the receipts of each office should be shown separately under the five heads mentioned in the note at foot of Form A.
- (ii) Form A should be checked carefully by the District head-quarters office with the Sadar treasury accounts, and discrepancies, if any, should be reconciled before Form B is submitted to the Accountant-General, Bengal. If amounts noted in Form A by any subordinate office, relating to transactions which may take place after the closure of sub-treasury accounts, are not incorporated in Form B by the District head quarters office on account of their non-inclusion in the Sadar treasury accounts, an intimation should be given to the subordinate office concerned, to include such amounts in the statement for the quarter following that to which the Form A refers.

110. The Accountant-General, Bengal, has directed Treasury officers to check the receipts and payments in detail and then certify at the foot of Form B the fact of their having done so, noting distinctly on the form any omission or discrepancy before giving the certificate. (Accountant-General, Bengal's Circular No. 42 T M.—T. A. D., dated the 28th September 1908.)

Statements E, F, G and H of Return B—when and how to be submitted.—111.

(a) Statements E and F (which are on one sheet) will be submitted to the Inspector-General on the due date, with the modification that the headings in Return B, Statement E, beginning from "Deduct amount not paid into the treasury during the current quarter" to "Total amount paid * * * * during the current quarter" may be left blank.—*Statements G and H of Return B—when and how to be submitted.*—Statements G and H (which are on one sheet) and a supplementary Return B, Statement E, containing figures office by office against the headings left blank in submitting Return B, Statement E, should be submitted after the accounts have been ultimately verified by the Accountant-General, Bengal. It should be borne in mind that in submitting Statement G and supplementary Statement E, a certificate should be given on each that the accounts have been verified by the accountant-General, Bengal. [*vide* paragraph 108 (iv) above.]

The full amount of commission or salary paid to Sub-Registrars should be entered in Statement G of Return B.

Statements Nos. 5 and 7 of Return No. 1—when and how to be submitted.

(b) As regards the statements of receipts and expenditure (Statements Nos. 5 and 7 of Return No. 1), to be submitted by Sub Registrars to the Registrar, Statement No. 5 should continue to be submitted on the due date, while Statement No. 7 need no longer be submitted.

The five detailed heads need not be given in the supplementary Statement E.

(c) The five detailed heads, viz, (a) "Fees for registering documents," (b) "Fees for copies of registered documents," (c) "Fees for searching records," (d) "Sale-proceeds of old stores and materials," and (e) "Miscellaneous," under which the receipts are required to be shown in Form A, need not be given in the supplementary Statement E.

The five detailed heads are meant only for statistical purposes.—112. (a) For statistical purposes, all registration receipts remitted to the treasury or sub-treasury, should be shown in the money-order coupons or chalangas, as the case may be, under the five heads, mentioned in the preceding paragraph.

Explanation of the five detailed heads.—(b) Under the first heading, fees for registering documents, will be included fines levied under sections 25 and 34 of the Registration Act while under the heading "Miscellaneous" will be shown fees for authentication of powers-of-attorney and miscellaneous receipts other than the sale-

proceeds of paper for copies. Sale-proceeds of old stores and materials such as waste paper, old furniture, packing cases or boxes, etc., should be shewn against heading (d).

Sale-proceeds of paper for copies—how shown—(c) Sale-proceeds of paper for copies should be remitted to the treasury with a separate chalan in the form prescribed for the general public instead of with a departmental chalan or shewn in the money-order coupons in a separate entry headed "Sale-proceeds of paper for copies."

Latest date for payment into sub-treasuries.—113. As the monthly accounts of Subdivisional treasuries are closed on the latest date as fixed under article 324, page 142 of the Civil Account Code, Volume I, sixth edition, every endeavour should be made by the Sub-Registrars, who send their remittances to Subdivisional treasuries, to forward their fees, etc., on such date as to reach and be credited in the Subdivisional treasury on or before the latest date so fixed.

Foot-note in Statement 5, Return No. 1.—114. Sub-Registrars will mention in a foot-note in Return I, Statement 5, the amounts remitted to the treasury, during the period covered by the return, with dates.

Return C.

Only ordinary registration fees to be shown in Statement M.—115. Fees levied under article N on obligations for the payment of money should not be shown in Statement M, Return C, but only the ordinary registration fees should be shewn.

Return E and F.

Returns E and F.—116. In these returns should be shown not only registered deeds but also deeds refused registration.

Return G.

Statement R explained.—117 (a) Return G consists of Statements "R" and "S". The former relates to (1) entire revenue-paying estates, (2) shares in such estates, (3) revenue-free properties, (4) intermediate tenures of all kinds, and (5) interests in land classed as "others," i.e., intermediate between tenures and rights of occupancy or holdings at fixed rates. In filling up Statement "R" under head (3) above care should be taken not to confound rent-free tenures with revenue-free estates. The latter are distinguished by the word *siddha* (recognized by law) prefixed to the word denoting "rent-free," or by a reference to the Collector's register C. (old) or B. (1) (new).

Statement S explained.—(b) Statement S exhibits the number, annual rent and the value of riyati holdings transferred by registered deeds of sale, and the classes by whom they are usually purchased. It is subdivided into two headings *vis*, (1) holdings described in the documents as held at fixed rent or at fixed rates of rents and (2) holdings described in the documents as settled or occupancy holdings.

Annual rent to be correctly stated in Statement S.—(c) The annual rent payable to landlords required to be shown in column 7 of Statement S should also be correctly stated. Any unusual discrepancies between the number of transactions and that of purchasers should be explained, as far as practicable, in a foot-note to the statement.

Explanation of arrears.—118. The periodical returns should invariably be accompanied by an explanation of the cause of any arrears into which the office may have fallen. When delay occurs in the submission of the returns, an explanation of the delay should accompany them. *Explanation of delay in the submission of returns*. When the District returns are delayed in consequence of the dilatoriness of subordinate offices, a statement should be given showing the dates of receipt of the returns of subordinate offices, the dates of return for corrections, and the dates of receipt of the revised returns.

Special report on arrears.—119. Where arrears for previous years exist, a special report on the subject should be furnished with each return showing the progress made in working them off.

Monthly statement of transfers of estates.—120. Every registering officer will submit, on the first day of every month, to the Collector of the district a statement in form C given in Appendix VII showing all transfers by sale and gift of estates, whether revenue paying or revenue-free, registered in his office during the preceding month. Columns 6 to 9 of the statement are intended for the Collector's office.

Detailed lists of establishments to be submitted to Accountant-General, Bengal.—121. Detailed lists of establishments of Sadar and sub-offices should be submitted to the Accountant-General, Bengal, not later than the 15th May of every year. A consolidated abstract in Form No. 4A of the Civil Account Code for all the offices under the District Registrar should accompany the lists. For correct preparation of the lists articles 55 and 56 of the Civil Account Code, Volume I, and paragraphs 51 to 62 of the Bengal Treasury Manual may be consulted.

Report of prosecution when and how to be submitted.—122. As soon as a prosecution instituted under the Registration Act is closed, a report will be submitted by the Registrar to the Inspector-General in Form F, Appendix VII.

Return in form D regarding transfers of lands by sale, gift, etc., date of submission of.—123. All officers in charge of subordinate registry offices should submit annually for the financial year a return in Form D, Appendix VII, prepared from the figures compiled in Registers A, B and C, (*vide* paragraph 91 above) to the District Registrar who, in turn, should submit a consolidated return in the same form to the Inspector-General by the 1st of August in each year. A copy of the District return should, at the same time, be forwarded direct to the Director of Agriculture, Bengal.

A weekly statement of remittances to be submitted to the District Sub-Registrars.—124. The Sub-Registrars shall submit a statement in Form E, Appendix VII, every week to the District Registrar. The District Sub-Registrar will check some of the statements with the rough draft E or 5 and the cash-book when he visits the offices on inspection.

PART XIV.

MISCELLANEOUS.

Exemptions from the payment of registration fees.—125. (a) The registration of the security bonds, executed by non-gazetted officers of Government, for the due performance of their office is exempt from the payment of registration fees. It has, accordingly, been decided that the registration of the security and penalty bonds executed by—

(1) Ministerial Officers;

(2) Jailors, Deputy Jailors, Assistant Jailors, and Jail warders;

(3) Other Government servants other than ministerial officers, such as menials, constables, sweepers, peons, etc.,

is exempt from the payment of registration fees. No stamp duty is payable on such bonds.

(b) The registration of bonds and mortgage deeds given by private parties as security for non-gazetted officers for the due performance of their office is exempt from the payment of registration fees and stamp duty.

Instruments executed by or on behalf of a Co-operative Credit Society, exempt from payment of registration fees.—126. The Governor-General in Council has remitted all fees payable under the law of registration for the time being in force, and stamp duties in respect of instruments executed by or on behalf of any Co-operative Credit Society for the time being registered under that Act, or by an officer or member of such a society and relating to the business thereof.

Provided that the Local Government may, at any time, withdraw such exemption in the case of any society.

Standard measurements of racks.—127. The following measurements should be observed in submitting requisitions for, and the construction of, racks for Registration record-rooms :—

The principal registers of the Department being 18" x 12", there should be a clear space between two shelves of 21" (allowing 3" room for drawing out the registers), and the width of the shelves should be 30" (when the rack is intended for a double row of registers, allowing 6" room between the two rows). The height of the lowest shelf from the bottom should be one foot. The total height and length of the racks will, of course, vary according to the size of the record-room.

Plan and estimate of registration buildings—to be prepared in triplicate.—128. The plan and estimate for any work to be done in connection with Registration buildings should be prepared in triplicate, so that a copy of each may be filed in the Registration Office and two copies sent to the office of the Inspector-General of Registration.

One copy will, of course, be prepared by the Public Works Department and the second and third copies may be prepared by any other agency available and paid for from the contingencies of the District head-quarters office.

Stamp duty on cultivators' leases.—129. Registering Officers should bear in mind that to bring a lease within the purview of exemption clause (a) to article 35, Schedule I of the Indian Stamp Act II of 1899, it must be executed in the case of a cultivator and for the purposes of cultivation (including a lease of trees for the production of food or drink) and that there should be no payment or delivery of any fine or premium. These are the primary conditions which apply to all cultivators' leases whatever the term or the rent reserved may be. When these conditions are fulfilled it should be seen whether a definite term is expressed in the deed. If it is expressed *and such term does not exceed one year*, the lease should be treated as exempt *whatever the rent may be*. If no definite term is expressed, *i.e.*, if the lease is for an indefinite period or if the lease is granted in perpetuity or if the term expressed exceeds one year, the lease will still be treated as exempt, *provided the average annual rent reserved does not exceed Rs. 100*.

Illustrations.

A lease is executed in the case of a cultivator and for the purposes of cultivation without the payment or delivery of fine or premium—

Term leases.—(a) For six months (not exceeding one year) at an annual rent of Rs. 1,000 (*whatever the rent may be*). It is exempt from payment of stamp duty.

Term leases.—(b) For two years (exceeding one year) at an annual rent of Rs. 50 (not exceeding Rs. 100). It is exempt from payment of stamp duty.

Term leases.—(c) For two years (exceeding one year) at an annual rent of Rs. 101 (exceeding Rs. 100). It is not exempt.

Indefinite leases.—(d) For an indefinite period (*i.e.*, no period is expressed in the deed) at an annual rent of Rs. 99 (not exceeding Rs. 100). It is exempt from stamp duty.

Indefinite leases.—(e) For an indefinite period (*i.e.*, no period is expressed in the deed) at an annual rent of Rs. 101 (exceeding Rs. 100). It is not exempt.

Perpetual leases.—(f) *In perpetuity*, at an annual rent of Rs. 99 (less than Rs. 100). It is exempt.

Perpetual leases.—(g) *In perpetuity*, at an annual rent of Rs. 101 exceeding Rs. 100). It is not exempt.

Certain applications exempted from stamp duty.—130. Applications under sections 24, 31, 34, 36, 37 and 39 are exempt from the payment of stamp duty.

Notices to be exhibited.—131. The following notices shall be exhibited in some conspicuous place, to which the public have easy access, at every registration office :—

- (1) A table of fees (section 79).
- (2) Notice of daily sittings (Rule 105).
- (3) Table of distances, prepared by the collector.
- (4) Daily notice of completed deeds (Rule 106).
- (5) Broad sheet of stamp duty and registration fees on agricultural and other leases of small value.
- (6) A combined notice that all applications of whatsoever description must be made to the Sub-Registrar direct, and regarding mode of identification and gratuitous advice, (see Appendix VIII, Form No. 4).
- (7) Notice regarding revocation of powers-of-attorney, (see Appendix VIII, Form No. 5).

Daily notice of completion.—132. The daily notice of completion should be in the vernacular. In district head-quarters offices it should be in English and vernacular. Each day, the notice of the previous day should be carefully filed and the file preserved until one month after the date of the next inspection of the office, from the date of which inspection a new file will commence.

Chubb's locks—how to be dealt with.—133. The following procedure sanctioned by the Board of Revenue regarding the disposal of duplicate key of Chubb's lock and the loss of the key of such a lock should be observed in all registration offices :—

- (a) The Controller of Stationery will keep the duplicate keys of all locks which he issues. * * * The duplicate keys of Chubb's locks of any department which an officer of that department may have in his possession, should be at once forwarded to the Controller of Stationery.
- (b) When the key of any Chubb's lock is lost, a seal shall forthwith be placed on the lock, so that it cannot be unlocked without breaking the seal, and an application for the duplicate key shall at once be made to the Controller of Stationery. Such other precautions as considerations of safety may require, *e. g.*, the addition of another pad-lock, may be taken ; * * * when the lock has been opened by the duplicate key, the lock and keys shall be immediately forwarded to the Controller of Stationery. In a case of great urgency, or where some malpractice is suspected, the locks should be broken open.

Supplementary Notes.

Notes on Rules and Circular Orders published by the orders of the Hon'ble the Inspector-General of Registration Bengal.

Rule 4. (a) Completed registers of thumb-impressions prescribed in note (a) to Rule 102 shall be transferred to the Registrar's office in January of each year.

Mode of sending registers.—(b) Registers and bulky records should be sent by the cheapest means consistent with safety. Completed registers of subordinate offices will be transmitted to the district office at the expense of Government.

Rule 5. The registers of thumb-impressions of the Registrar's office as well as those transferred to it under note (a) to Rule 4 shall be permanently preserved.

Rule 9. *Clauses (c) and (d) of the rule* :—Papers and records in all District Head quarters offices should be sorted according to the list in Appendix VI. In other registry offices, the directions in the list should be followed so far as they are applicable.

Rule 11. *Destruction of unclaimed documents and other records*—(a) All Sub-Registrars should early in January of each year, prepare in the prescribed forms, lists of unclaimed documents and of records which have become liable to destruction under section 85 of the Act and Rule 9 respectively. A copy of the list of unclaimed documents should be hung up in the office with a notice that unless the presentants appear within one month to claim the deeds and pay any fines due on them, the deeds will be destroyed. Sub Registrars should forward their lists to the District Sub-Registrar on or before the 31st January in Forms Nos. 1 and 2, Appendix VI.

The District Sub Registrar, after checking them and incorporating them with his own list, should forward the consolidated list for the district to the Inspector-General's office on or before the 28th February. If there be any deeds belonging to Government, the Sub Registrar before including them in his list should inquire and note in it whether they are any longer required by Government. As soon as sanction is received under the above Rule (provided, in the case of the unclaimed documents, that one month has elapsed since the posting of the notice to presentants), the deeds and records should be destroyed in the presence of the Registering officers. Sub Registrars should report the date of destruction to the District Sub-Registrar, who will make the requisite entries under Rule 10 in the registers.

(b) A certificate should be recorded by the Registering officer on the office copies of the lists [which are to be preserved in perpetuity under Rule (6)] that the documents and records have been effectually destroyed in his presence.

Rule 17. *NOTE*.—By virtue of section 3 (36) of the General Clauses Act, 1897, "oath" includes affirmation and declaration in the case of persons by law allowed to affirm or declare instead of swearing. As to who may affirm, see section 6 of the Indian Oaths Act, 1873.

Rule 19. *Statements under section 63*.—The statements should be recorded by the Registering officer in his own hand at the time they are made.

Rule 20. (a) *Sections 64-67 to be strictly complied with*.—The provisions of sections 64 to 67, regarding the preparation and despatch of copies and memoranda, should be strictly complied with, great care being taken that the despatch of such copies and memoranda to other offices is in no case omitted.

(b) *Preparation of memoranda*—In preparing memoranda (Form No. 1, Appendix 1) the following instructions should be observed :—

Column 1 should contain simply the general designation of the document ; as, for instance, conveyance, pattah, etc., the date of presentation and a copy of the endorsement of registration.

Columns 2 and 3 explain themselves.

Column 4 is intended to give a general description of the property referred to in the document, e.g., a zamindari, a patni taluk, an indigo factory, etc., together with its situation, extent of interest affected, and any short name by which the property is generally known. The tauti number and survey number should also be given where possible. In towns, the name of the street and the number of the house should be given.

If a revenue-paying property is transferred, the revenue should be stated if possible ; it should be stated whether an entire property is transferred or only part of it ; in the case of permanent tenures, the nature of the tenure should be given ; in the case of mortgage, whether the mortgage is usufructuary or not, and so on.

Rule 21. (a) *Short notes to be sent.*—If the Registering officer is unable to despatch copies of documents on the day they are admitted to registration, a short note in form No. 3, Appendix VI, shall be sent on that day.

(b) *Cost of postage.*—Postage on the transmission of copies and memoranda cannot be levied from the parties. The charge is covered by the consolidated fee under article M and will be defrayed by Government as a contingent charge.

Rule 24. (a) *Procedure on receipt of copy or memorandum.*—On receipt of a copy or memorandum from another registration office, the Registering officer will note on it the date of receipt with his initials, and have it numbered and paged.

(b) *Registers of copies and memoranda sent (form No. 8, Appendix VI).*—In the register of copies and memoranda despatched to other offices, column 1 will show the serial number in Book I and the volume in which the document to which the copy and memorandum relate is entered. Column 2 will show the date of completion of registration of the document. In columns 4 and 5, respectively, will be entered the serial numbers of copies and memoranda, which are required to be issued for documents admitted to registration so that the number despatched and the number in arrear at a given time may be seen at a glance. Immediately on the despatch of a copy or memorandum, the Sub-Registrar will note the fact by putting his initials in the column of remarks. The date of acknowledgment will be entered in column 7 as soon as the acknowledgments from other offices are received. If delay occur in the despatch of receipts by other offices, reminders should be issued. The date of despatch of each reminder should be noted in the column of remarks.

Rule 25. (a) *Rectifying old irregularities*—Where register-books for previous years are found to be defective so far as regards the authentication of the copies of documents recorded therein and the attestation of mistakes and interlineations, steps should be taken to rectify the irregularities and supply the omissions. If the defects are discovered during the incumbency of a Registering officer other than the Registering officer during whose incumbency the registers were written, the Registering officer in charge at the time of the discovery, shall remedy the defects as far as possible, adding a note at the beginning of the register to the following effect :—

“The signature of the then Registering officer being wanting in pages of the book, the undersigned has this day supplied the omissions.”

Dated

Sub-Registrar.

(b) *Marginal note to be made of cancellation of document by order of Civil Court.*—When a Court forwards a copy of its decree, cancelling a registered instrument under section 39, Specific Relief Act, I of 1877, the Registering officer shall note, on the margin of the copy in the book in which it has been registered, the fact of the cancellation of the instrument.

Rule 27. *Certificates of closure.*—Certificates of closure should be written as soon as a book is closed. Two certificates are required on each book, namely (1) a certificate to the effect that the book is closed, to be appended to the last page at the end of the written portion ; and (2) a certificate showing the number of

pages written upon, to be entered at the top of the written portion of the first page. These certificates should not be written on the fly leaves of registers.

Rule 31. (a) *Special rules for indexing names.*—When a document is executed on behalf or in favour of Government the entry in Index No. I shall be made under G. Government, the name of the officer executing the document being entered in column 2; if on behalf or in favour of the Court of Wards under W. Wards, Court of; and in the case of any other Court, under C. The names of the companies shall be entered as they stand, the article only being omitted; thus, Land Mortgage Bank of India, Limited, under L; Ganges Steam Navigation Company, Limited, under G.

(b) When a document is executed on behalf of the Administrator-General, the Receiver, the Official Trustee, or the Sheriff of Calcutta, the entry in Index No. I shall be under Administrator-General, &c.

(c) Deeds registered in favour of the Chairman of a District Board, the Chairman of a Local Board, and the Chairman of a Municipality, should be indexed under "Bo" (Board District, Board Local) and "Mu" (Municipality), the name of the Chairman being entered in column 2.

(d) The following are the terms to be used in column 3 of Index No. I:—

Terms for Indexing.—For leases—"Lessor" and "lessee" and pattahs, executant, "lessor" claimant "lessee." For Kabuliyaats, executant "lessee" claimant "lessor," the nature of the documents being distinguished, if necessary, by the affixes P. and K. The prefixes P (perpetual), I (indefinite) and T (term) should also be used.

For sales—"Vendor" and "Vendee."

For mortgages—"Mortgagor" and "mortgagee." If usufructuary, prefix U.

For gifts—"Donor" and "donee."

For settlements—"Donor of settlement" and "donee of settlement."

For deeds of partition—"Partitioner" only.

For assignments—"Assignor" and "assignee."

For decree and sale-certificates—"Decree-holder," "judgment debtor," and "auction-purchaser."

In the case of representatives or guardians—"Representatives" or "guardian" of "lessor," donor, &c, shall be used.

(e) Column 3 of Index No. III should contain the following:—

For wills—"Testator," "testatrix," "depositor," "executor," "executrix," in black ink.

"Claimant" and "legatee" in red ink.

Authorities to adopt—"Donor" and "donee."

(f) Column 3 of Index No. IV should contain the following:—

For bonds—"Obligor" and "obligee" applies also to instalment bonds.

For sales—"Vendor" and "vendee."

For receipts—"Debtor" and "creditor."

For gifts—"Donor" and "donee."

For assignments—"Assignor" and "assignee."

For policies of insurance—"Insurer," "insured."

For bills of exchange

For promissory notes } "Drawer," "drawee" and "endorser."

For decree—"Decree-holder," "judgment-debtor."

For agreements for personal service—"Master" and "servant."

For releases—"Releasor," "releasee."

In case of "representatives" or "guardians," as in Index No. I.

For "deeds of surrender," "surrenderer," "surrendered."

Mode of indexing in Index II.—(g) If each parcel of immoveable property has not a distinctive name of its own, the name of the mauza shall be given in

column I of Index No. II, and any further description which may be available should be added, e.g. :—

Rampore, tauzi No. 521, 2 annas.

Gobindpore, 30 bighas, within specified boundaries.

(h) In column I of Index No. II, it should be specified, wherever possible whether the land concerned is an estate, a holding or a tenure and whether it is revenue or rent-paying or revenue or rent free. The exact rights affected by the document registered should, as far as practicable, also be mentioned in the same column.

Rule 33. In indexing the names of the testator of and executor under a will and the names and additions of the claimants the following procedure should be observed :—

I.—If the testator of a will is alive, the will can be presented for registration only by the testator, (*vide* section 40 of the Indian Registration Act), in which case the names and additions of the claimants are not to be indexed, but those of the testator and executor are to be indexed in Index No. III (*vide* section 55 of the Indian Registration Act).

II.—(a) If the testator is dead, and the will is presented for registration by the proper person mentioned in section 40 of the Indian Registration Act, or (b) if a sealed cover containing a will is opened and the contents of the will copied in Book 3 according to section 45 of the Indian Registration Act, then the names and additions of the claimants are to be indexed under section 55 of the Indian Registration Act, and Registration Rule 34, respectively.

Rule 36. (a) *Indexing of copies, and memoranda.*—In posting entries relating to copies and memoranda of documents, the name of the office in which the copy or memorandum is filed will be entered in the column "Where registered." The name of the office where the original deeds have been registered should also be entered within brackets.

(b) *Indexing of sale certificates, etc.*—In the case of copies of sale certificates, instruments or orders received under section 89, the name of the office in which they are filed should be entered in the column headed "Where registered," together with the designation of the Court of officer forwarding them within brackets.

Rule 38. Registration offices may be closed on the last Saturday of a month under the order of the District Registrar.

Rule 39. (1) *Writing of documents for presentation.*—All documents presented for registration shall be written in ink, lithographed or printed on paper, vellum or vegetable parchment, and shall contain a blank space of not less than one side of a foolscap half-sheet, or shall be attached to a covering slip containing such blank space.

(2) *Receiving documents for registration.*—Documents presented for registration shall be received one at a time, ordinarily in the order of presentation, and each shall be examined and endorsed in the same order, as far as practicable. No document should be received for registration after the hours mentioned in the notice of daily sitting, but the names of any persons whose documents the Sub-Registrar is unable to take on any day may be noted, so that their documents may be taken first on the following day.

(3) *Objection to registration.*—It is the duty of the Registering officer to decide the admissibility of documents himself under the Act and Rules. Objections to registration should not therefore be filed, but returned with an endorsement that the objector should take such legal steps as he may think fit.

Rule 43. *Advice as to stamp duty.*—If the executant of or claimant under a deed, who is in doubt about the proper stamp, consults a Registering officer on the

subject before formal presentation, the required information may be given to him without impounding the deed. But any deed formally presented with an insufficient stamp must be impounded.

Rule 49. Receipts to presentant.—The receipt given under section 52 should always be sealed with the Sub-Registrar's seal, and any subsequent fees paid on a document shall be entered in the counterfoil receipt and in the original receipt when presented, which will then be pasted on to its own counterfoil. The form of receipt in triplicate explains itself.

Rule 50. Endorsement of visit.—(a) When a registering officer records the endorsement under section 58 on a visit under section 38 he shall use Form No. 7, Appendix IV, so far as may be applicable.

Endorsement of Admission of execution by Court or officers of Government.—(b) In the case of documents executed by Courts or officers of Government, who are exempt from personal appearance in Registration offices under section 88 of Act XVI of 1908, the endorsement of admission of execution shall be in Form No. 1, Appendix V.

Endorsement of payment of money.—(c) When any payment of money is made in the presence of the Registering officer, an endorsement to that effect should be recorded in place of the endorsement prescribed in Note 5, Form No. 3, Appendix IV.

Endorsement relating to execution of will or authority to adopt—(d) In the case of a "Will or authority to adopt" admitted to registration after the death of the testator or donor, besides the usual presentation endorsement, the endorsement in Form No. 2, Appendix V should be written.

When endorsements may be in the handwriting of clerks.—(e) In the case of *ex-officio* Sub Registrars the presentation and completion endorsements may be written by the clerks.

Stamps for formal parts of endorsement.—(f) The use of rubber stamps may be allowed for the formal parts of the endorsements under sections 52, 58 and 60 of the Act and for the certificate of admissibility under the Stamp and Tenancy Acts.

Use of stamps for copying in the registers.—(g) When the use of stamps has been sanctioned, they may be used also for copying the endorsements in the registers, provided that the impressions can be conveniently contained in the width in the margin.

(h) The words "Execution admitted" and "Identified" should be in the handwriting of the Sub-Registrar in the endorsement under section 58.

Stamps not allowed for signature.—(i) Registering officers should invariably sign their names with their own hand. The use of a stamp for a signature is forbidden in any proceeding under the Indian Registration Act. It is only in franking covers and in signing advices and reminders, that the use of a stamp can be allowed. This, of course, will not apply to receipts, returns, statements, copies under sections 65 to 67 or attested copies granted to parties which cannot be considered as matters of routine.

Rule 53. Thumb-impressions.—(a) Thumb-impressions of executants should be taken in the presence of the Registering officer. They should be taken in the printed form of register prescribed for this purpose and on one side of the paper only. The serial number of the thumb impression taken in the book should be quoted against the impression on the back of the deed. A separate register for thumb-impressions may be kept for cases of commission.

(b) The mode of taking thumb-impressions is explained below :—

Mode of taking thumb-impressions.—A small quantity of ordinary printer's ink (which will be supplied by the Controller of Printing, Stationery and Stamps);

(c) *Minority*.—Where a guardian has been appointed by a Court of Justice, or where the Court of Wards has assumed jurisdiction, minority terminates on the completion of the 21st year from the date of birth. In all other cases it terminates on the completion of the 18th year for persons domiciled in British India and the allied States.

(d) For the purposes of the Registration Act the minority of a male Hindu, who is not a British subject, terminates at the age of 16 years under the Hindu law. But if he is a British subject, the Indian Majority Act, IX of 1875, applies, and the age of majority is 18 years.

Representatives—denial of execution by some of them.—(e) Where some of the representatives of a deceased executant deny execution while others admit it, registration of the document should be altogether refused, subject to the provisions of section 73 of the Registration Act.

Immoral or unlawful documents.—(f) Registration cannot be refused on the ground that the consideration or object of a document is immoral or otherwise unlawful. Every case in which a document presented for registration purports to transfer a female child to a prostitute or person of a caste of prostitutes, or to impose an illegal cess or other unlawful condition on any person, should be reported by the Sub Registrar to the District or Subdivisional Officer, as the case may be, so that if the circumstances are suspicious, the Magistrate may make enquiries, and, if necessary, take further action.

Refusal of registration by Registrar to be recorded in Registrar's Book No. 2.—(g) A Registrar when refusing to register or to direct the registration of a document should, like a Sub Registrar, record the reasons for his refusal in his Book No. 2. Every Registrar should, therefore, maintain a Book No. 2 distinct from that of the District Sub-Registrar.

Rule 56. *Interpretation of the law relating to delay in the presentation of documents for registration and in the appearance of executants.*—(a) Sections 23, 25, 26 and 34 :—Section 26 refers to documents executed out of British India. With regard to all other documents the law requires 'sections 24 and 34, clause (1) that both the presentation for registration and appearance of the executant shall take place within four months from the date of execution. But in order to avoid hardship in certain cases, it also provides that a further period of four months shall be allowed, subject to a fine—(1) when a document cannot be presented within the first four months owing to urgent necessity or unavoidable accident (section 25), and (2) when, after a document has been presented, the executants, owing also to urgent necessity or unavoidable accident, cannot appear, or cannot be made to appear, to admit execution (section 34, proviso). In cases of urgent necessity or unavoidable accident, therefore, a delay of four months after due time is allowed for presentation under section 25 and a similar delay for appearance under section 34; and both periods may be allowed for the same document if an urgent necessity or an unavoidable accident occurs to prevent both the presentation of the document and the appearance of the executant in due time. The two periods are quite distinct, and are given for different purposes and at different stages in the procedure of registration.

Willful refusal or neglect to attend and admit execution. *Radh Kissen Rowra Dukna versus Chonee Lall Dutt, I. L. R., Calcutta Series V, page 445. Inre Shaik Abdul Aziz, I. L. R., Bombay Series XI, page 691.*—(b) In the cases noted on the margin it has been held that a willful refusal or neglect to attend and admit execution, on the part of an alleged executant, in obedience to a summons for that purpose, is a refusal to admit execution and tantamount to a denial of execution. As soon as such refusal or neglect is proved before him, a Registering officer may record his refusal to register the document under section 35.

Registration of documents executed by several persons.—(c) When a document is executed by several persons, if any of the executants deny execution the deed shall be refused in respect of him and registered in respect of those who admit. If some of the executants appear and admit execution and others do not appear, though process has been served upon them, the deed shall be registered in respect of those who admit and refused as regards the others. If some of the

executants appear and others do not appear, and no steps are taken to procure their appearance, the deed shall be refused.

Endorsement on refused deeds executed by several persons.—(d) When a document is executed by several persons and registration is refused with regard to some of them, the words "in respect of A," or similar words should be added after the word "refused."

(e) The time during which an impounded document remains with the Collector for adjudication of stamp duty cannot be excluded in calculating the period of four months under section 34 of the Registration Act.

(f) The time during which a document remains with the Collector for adjudication of stamp duty under section 31 of the Indian Stamp Act, II of 1899, cannot be excluded in computing the period of four months under section 23 of the Indian Registration Act.

Procedure in case of documents admitted after four months.—(g) Before a Sub-Registrar forwards an application under the proviso to section 34, he shall record the endorsement of execution

Applications under section 25 (2) and the proviso to section 34—how dealt with.—(h) When an application is made to a Registering officer under section 25 (2) and the proviso to section 34 of the Act for extension of the prescribed period, he shall examine the person presenting the deed to ascertain the cause of delay and forward the record of inquiry, with his recommendation, to the Registrar and await orders.

Rule 57. (a) *Summary of Rules 55 to 57.*—All pending documents shall be refused registration after eight months from the date of execution, if presented within the period prescribed by section 23, after twelve months, if presented within the extended period under section 25 and after eight months from the date of arrival in India, if presented within the period prescribed by section 26.

Procedure in the case of documents executed partly in and partly out of British India.—(b) In the case of a document executed by some of the parties in and by others out of British India, the party presenting the document may proceed at his option under section 23 or section 25 instead of section 26, and if he does so, the provisions of and the above instructions regarding those sections shall apply.

(c) It is unnecessary for a District Sub-Registrar to make any report to the Registrar under rules 55, 56 and 57.

Rule 60. (a) *Order of copying.*—Documents should be copied in the order in which they are admitted as required by section 52.

(b) *Definition of wills, etc.*—Care should be taken not to register in Book 3 any document which does not come under the definition of a will, that is, every writing making "a voluntary posthumous distribution of property," or of an authority to adopt, that is, a written authority from a husband to a wife to adopt a son after his death. Deeds of gift should not be mistaken for wills nor agreements to adopt for authorities to adopt.

(c) *Procedure for registration of wills or authorities to adopt.*—The procedure prescribed by section 35 of the Indian Registration Act is not applicable to the registration of wills or authorities to adopt presented for registration after the death of the testator or donor. Sub-section (2) to section 41 deals with the registration of wills or authorities to adopt so presented.

Rule 61. *Note of the number of copies of the same document.*—When two or more copies of the same document are registered under Rule 61, each copy should be separately numbered in the fee-book and a note should be made in the margin of the register, showing the number of copies registered.

Rule 62. When under section 30 (b) the Registrar of Calcutta registers a document accompanied by a map relating to property, no part of which lies within

his own district, a copy of the map shall be supplied for record in his own office in addition to the number required by section 21 (4) of the Registration Act.

Rule 65. Procedure on completion.—(a) Each copy should be signed in full by the copyist, reader, comparer and Sub-Registrar, and the date on which the signature is made should invariably be given below each signature.

Copyist and comparer to sign their names in registers.—(b) The copyist, reader and comparer of the endorsements also are required to sign and date in the left-hand margin.

Rule 67. Loss of register-books or registration of documents without copy.—The above procedure may be observed as far as practicable, in cases where register-books are lost or destroyed, or where through fraud or other causes the document has been registered without being copied into the registers.

Rule 68. Endorsement of registration ordered by Civil Courts or Registrar.—The endorsement on documents, the registration of which is ordered by the registrar or the Civil Courts will be in Form No. 3. Appendix V.

Rule 70. Fee under Article N—how to be levied on printed, etc., documents.—If the amount of copying work in connection with registration of printed or lithographed documents is slight and the manuscript entries do not actually exceed two pages of the register, fee under Article N should not be levied. The extra fee should be calculated not on the amount of printed matter filed, but on the number of words actually copied by the registration establishment in the blank spaces of the forms.

Rule 71. Procedure on loss of receipt.—(a) Every application alleging the loss of a receipt and requesting the return of a document should be in writing, and should be presented by the person to whom the original receipt was granted. On the receipt of such application, the Registering officer will have the presentant identified. If the document has not been registered, a duplicate receipt may then be given; if it has been registered, the document may be returned; instead of the lost receipt the Sub Registrar shall cause to be pasted against the counterfoil a piece of plain paper with the following certificate endorsed on its face: "Certified that the loss of the original receipt was proved before me, the presentant duly identified, and the document returned as per signature of the recipient on the reverse.

Dated

Sub-Registrar."

Where the applicant is not the presentant, the Registering officer should neither return the document nor grant a duplicate receipt till he has satisfied himself that there is no fraud in the case.

A searching fee under Article F (a) of the Table of Fees should invariably be levied, and entered on the plain paper or duplicate receipt referred to above.

Thumb-impression of applicant to be taken—in case of loss of receipt.—(b) In cases of application for the return of documents alleging loss of receipt, the thumb-impression of the applicant should be taken in a separate thumb-impression register. The heading of column 2 only of the prescribed register of thumb-impression should be altered in manuscript to "Name and signature of the applicant, whose status should be mentioned." The Registering officer before returning the deed, should compare this impression, with the existing previous impression, if any, and satisfy himself that there is no ground for suspicion.

Civil Court injunction.—(c) The obligation of a Registering officer to return a document presented to him for registration to the person presenting it or to the person nominated by him on the receipt, is subordinate to his obligation of giving effect to any injunction of a Civil Court as to its disposal.

Receipts for kaddiyats of pound-farmers and ferries should be endorsed in favour of District Board.—(d) Registering officers should give effect to the arrangement

required by District Boards, whereby the receipts given by Registering officers for kabuliyaats executed by pound-farmers and lessees of ferries, in favour of District Boards, should be endorsed at the time of registration, by the executants in favour of some officer of the District Board concerned, in accordance with the provisions of section 61 of the Indian Registration Act. This would enable the Registering officers to make over the documents to the District Boards immediately after registration.

Endorsement of receipt under section 61—how to be made.—(e) Section 61 of the Registration Act provides that when the registration of a document is completed, it shall be returned to the presentant or to such other persons (if any) as the presentant has nominated in writing in that behalf on the receipt mentioned in section 52. The Registering officer is bound to see before he returns the deed that the written authority enjoined by section 61 is in proper order. If the presentant can write, the whole authority must be written by him. If he is illiterate, the whole authority must be written by the person who signs the name of the presentant.

Rule 73. When commissions may be issued.—(a) Commissions can be issued only under sections 33 and 38 of the Act. In cases under the second clause of section 31, the Registering officer should himself attend at the residence of the person desiring to present a document or deposit a will. It is desirable that Sub-Registrars should themselves pay the visit, as far as possible, in every case even under sections 33 and 38.

Fee for parties residing together.—(b) If the parties to a document or documents relating to the same transaction, reside in the same village and meet the Registering officer at the place fixed for his visit, they may be considered to reside together for purposes of Note (iii) of the Notes relating to Articles H, I, J and K of the Table of Fees, provided they are persons entitled to exemption under section 33 or 38, or who have shown special cause under section 31.

Travelling allowance to be drawn by one person only.—(c) Save under exceptional circumstances travelling allowance can be drawn by one person only in making a visit or executing a commission under sections 31, 33 and 38. Registering officers making a visit under these sections should not, therefore, be accompanied by a clerk.

Article L—(d) Only one fee under Article L of the Table of Fees may be charged for authenticating a power-of-attorney, however many signatures there may be on it. Should, however, the executants of the power be unable to attend the registry office, a separate fee under Article K should be levied from each person, provided they are not living in the same house.

Articles J and K.—(e) *Purdah nashin* women coming to a registration office in *palkees* or similar conveyances should not be charged fees under Article J or K, if the *palkee*, etc., is brought as near the office door as circumstances will allow. In such cases the woman will remain behind the *purdah* and be identified by some of her relatives or other respectable persons.

(f) Distances for which travelling allowance is charged under Article J or K of the Table of Fees shall be calculated by the Sub-Registrar himself by reference to a map or the Table of Distances prepared by the Collector and the making of this calculation should not be left to a clerk.

Rule 74. Endorsements in case of a document accepted under section 31.—When a document is received at a private residence under section 31, the endorsements in Forms Nos. 2 and 3, Appendix IV, should be written.

Rule 76. If the person to be examined is resident in another sub-district of the district in which a commission is issued, the commission shall be ordinarily sent to the registering officer of the sub-district in which such person resides.

The travelling allowance (if any) paid in respect of the commission shall be

transferred at the same time to the registering officer to whom the commission is issued but the commission fee shall be credited in the accounts of the registering officer issuing the commission.

Rule 80. Registration and authentication of powers—the distinction between them to be explained.—(a) (i) Every description of power-of-attorney may be registered, like any other document. But it will not be valid for registration purposes unless it is authenticated under section 33. Accordingly when a power-of-attorney is presented by a person who presumably does not understand the distinction between registration and authentication and if it be not a power which the Registering officer can authenticate, he shall register the document in Book No. IV. But if the power contains authority to present a document for registration, the registering officer should explain the difference between authentication and registration and ascertain the wishes of the presentant in respect of the document. There is nothing to prevent such a document being registered as well as authenticated, if the principal wishes it, but in such case the two operations will be treated as separate transactions and the usual fees shall be levied for both.

Thumb impressions of executants of power-of-attorney to be taken.—(ii) Thumb-impressions of persons executing powers-of-attorney should be taken when they are not personally known to Registering officer or otherwise exempted.

Full description of parties necessary in powers.—(iii) Powers-of-attorney presented at registration offices should contain the full additions of the parties, or such a description of them as to be sufficient for their identification. Registering officers should return powers-of-attorney deficient in these particulars to the parties for supplying the omissions.

Powers authenticated by Notaries Public out of British India.—(iv) Clause (c) of section 33 of the Act provides that powers executed out of British India shall be "executed before and authenticated by a Notary Public, &c." Powers which are authenticated by Notaries upon the affidavit of third parties, in the absence of the principals, should not, therefore, be recognized for purposes of registration by a Registering officer.

Several powers in one instrument.—(b) There is no objection to the combination of several powers in one instrument, provided stamp duty is paid for each distinct matter.

Execution of a deed and its presentation for registration—one transaction for purpose of stamp duty.—(c) It has been held that for the purpose of deciding the stamp duty payable on a power-of-attorney, the execution of a deed and the presentation thereof for registration, is one transaction.

Register of powers-of-attorney (Form No. 18, Appendix I) how to be kept.—(d) In the register of powers-of-attorney—

(i) The full additions of principals, attorneys and identifying witnesses as given in the powers should invariably be given.

(ii) The note required by Rule 80 should be copied into the register in each case.

(iii) The abstracts of special powers-of-attorney should contain such particulars of the deeds to be executed or registered as are mentioned in the power.

(iv) The date of authentication of each power-of-attorney shall be entered in the register.

(v) Each entry in the register should be signed by the Sub-Registrar.

(vi) If there is any provision revoking previous powers, it shall be noted.

(vii) At the end of the register shall be an index to the names of all principals and attorneys, referring to the page at which the details of the power are recorded; and such index shall be written up at the end of each year.

- (viii) The abstracts of general powers should contain a summary of the different authorities conferred by them.
- (ix) The Stamp duty paid should be noted in red ink above the abstract of each power.
- (x) A principal desiring to revoke an authenticated power should produce it, if available before the Sub Registrar and get it cancelled.

Rule 84. The safes in which sealed covers are deposited should be built into the wall of the registration office.

Rule 95. *Application for copy from registers in the Registrar's office.*—(a) When an application for a copy is forwarded to the District head-quarters office under Rule 95, the necessary copying fee or an acknowledgment of its receipt should accompany it.

Procedure in cases of application for search or copy.—(b) On payment of the fees prescribed in articles F and G of the Table of Fees, copies of registered documents, subject to the provisions of section 57. of entries Departmentally prescribed and Registrar's proceedings in cases of appeals and applications may be granted. Registering officers shall grant receipts for fees deposited for search and copy in Form No. 4, Appendix VI. The receipt should be returned by the applicant when the copy is delivered to him.

Copies to be on stamped paper.—(c) Copies should be given on stamped paper, the amount of duty in each case will be regulated by article 24, Schedule I of the Indian Stamp Act, 1899.

Searches to be made without delay.—(d) When an application is made for copy, the search should be made, if possible, while the applicant is in attendance.

Striking of application for search.—(e) An application for search should be struck off if search is not made within 30 days of the application, and after that no refund of the search fee should be allowed.

Extracts from the register of powers of attorney.—(f) Extracts from the register of powers of attorney may be granted, the value of stamp paper for copies being regulated by Schedule I, article 24 of the Indian Stamp Act of 1899. The question whether copies of the abstract of powers should be granted to all applicants, or only to persons executing or claiming under them, should be determined by the consideration whether immoveable property is in any way affected by them. If immoveable property is affected by them, they should be treated under section 57 as documents registered in Book I. If not, they should be treated as entries in Book IV. The Registering officer alone can make the necessary search.

Examination of copies.—(g) All copies should be examined by an officer of the permanent establishment before issue, who will endorse or stamp them as follow :—

- | | | | |
|---------------|-----|-----|-----|
| 1. Fee paid F | ... | ... | ... |
| Ditto G | ... | ... | ... |

Copy prepared, signed, sealed, and delivered to
dated 19 . as per order

- 2. "True copy."
- 3. "For Registrar."

Rule 96. *Inspection fee to be levied on production of registers in Court.*—When a register-book is called for by any Court the fee for inspection under article F (b) of the Table of Fees should be levied by the Court from the party at whose instance the register is called for.

Rule 98. "The Sub-Registrars shall certify on the Register-books Nos. 1, 2, 3 and 4. "This book contains pages." This must be done before each volume is brought into use.

Rule 101. Copies of sale certificates.—(a) The Civil Courts have been directed by the High Court to insert in all copies of sale certificates as accurate a description of the property sold as the nature of each case will admit of, with sufficient particulars for its identification. The "additions" [as defined in section 2 (r) of the Registration Act] of the auction-purchaser and the name of each registry office, in whose jurisdiction any part of the property is situate should also be inserted by them in every case. Copies of the certificates should be written on machine-made medium paper. Sub Registrars should bring to the notice of inspecting officers omissions on the part of Civil Courts to send copies of certificates regularly or to comply with the above instructions. Where there is a joint office, copies of sale certificates should be forwarded to the parent office only.

Copies of certificates of sales of trees.—(b) Copies of certificates of sales of trees forwarded by the Civil Courts shall be registered in Book 1, it being assumed that the Civil Courts have in such cases decided to treat the trees as immoveable property.

Rule 102. Books and files to be kept in all offices under section 16—(a) The following additional registers shall be kept in all registration offices :—

- (1) A register of applications for search and copy. (Form No. 5, Appendix VI.)
- (2) A register of documents pending registration. (Form No. 6, Appendix VI ; See also paragraph 93, Chapter V)
- (3) A register of documents impounded and sent to the Collector. (Form No. 7, Appendix I.)
- (4) A register of refunds. (Form No. 7, Appendix VI.)
- (5) A register of copies and memoranda despatched to other offices. (Form No. 8, Appendix VI)
- (6) A register of apprentices. (Form No. 9, Appendix VI.)
- (7) Attendance register. (Forms Nos. 10 & 11, Appendix VI.)
- (8) Note-book. (Form No. 12, Appendix VI.)
- (9) A stock-book of stationery and a register of receipts and issues of printed forms, showing the quantities received from time to time and the quantity issued for consumption. (Forms Nos. 13 & 14 Appendix VI.)
- (10) Register of thumb-impressions for ordinary registrants. (Form No. 8, Appendix I.)
- (11) Register of thumb-impressions of applicants for return of documents in cases of loss of receipt.
- (12) Register of Contract Contingent expenditure as prescribed by Accountant-General, Bengal.
- (13) Register of Regular Contingent expenditure as prescribed by Accountant-General, Bengal.
- (14) Register of processes under section 36. (Form No. 15, Appendix VI.)
- (15) Register showing expenditure of service labels. (Form No. 16, Appendix VI.)
- (16) Receipts for fees and travelling allowance under section 31. (Form No. 9, Appendix I.)
- (17) Receipts for fees paid for search and copy. (Form No. 4, Appendix VI.)
- (18) Register of extra establishments. (Form No. 17, Appendix VI.)
- (19) An Acquittance Roll in the prescribed form.

(20) Register of letters received. (Form No. 20, Appendix I; See also Rule 103.)

(21) Register of letters issued. (Form No. 21, Appendix I; See also Rule 103.)

(22) Register of casual leave. (Form No. 23, Appendix VI.)

(b) The cash-book should be kept as follows :—

Mode of keeping cash-book.—(i) The receipts entered in the fee-book need not be entered in detail in the cash-book ; their daily totals will be sufficient. But all other receipts, and all payments whatsoever, shall be entered in full detail in the cash-book. All cash received shall be entered in the cash-book. No money shall, under any circumstances, be kept out of account.

The cash-book should be carefully balanced every day and signed by the Registering officer. The balance as shown in it should be compared with the actual cash in hand and the Registering officer should attach daily the following certificate :—

“The balance agrees with the actual cash in hand ”

(ii) Full details should be given of the daily balance in the cash-book and only the total should be carried over in balancing the payment side.

Rules for keeping catalogue—(c) In the catalogue should be entered not merely Books 1 to 5 and the Indexes, but also every other book or register that is used in a registry office or received from the Inspector-General.

An entry should be made as soon as a book or register is opened, or received from another office.

When a book or register is despatched to another office for record or is destroyed, a note to that effect should be made in the catalogue in the column of remarks.

Rough catalogue.—In all registry offices, where the records are numerous a rough catalogue will be kept, in which every book will be entered as soon as it is opened. After the close of each year the entries in the rough catalogue will be arranged in proper order and transcribed into the permanent catalogue.

Mode of keeping fee-book.—(d) The fee-book should be kept as follows :—

(i) Columns 1 to 7 and 3 in the fee-book should be filled up as soon as any document is presented except in the case of documents presented at the wrong office and returned immediately under Rule 42, and in the case of documents impounded under Rule 43 (1); columns 8 and 9 should be filled up as soon as a document is admitted or refused; columns 10 and 11, as soon as the registration has been completed; column 12, as soon as the document has been delivered; and column 14, as soon as the required copies and memoranda have been despatched.

(ii) The serial number shown in column 1 of the fee-book will be according to the order in which the deed is presented. There will be one serial number in column 1 for all documents presented (including powers-of-attorney), whether or not execution is admitted at the time. Thus there will not be a separate series for what are called pending documents, but such documents will be distinguished as pending by adding the letter P in red ink to the serial number in column 1. The serial number in column 1 will be noted on the deed in pencil.

(iii) The number shown in column 9 of the fee-book is the serial number of the deed in the register-book into which it is copied.* Only documents which are finally registered will appear in column 9. The serial numbers in Books 1, 3 and 4 are, therefore, the only numbers which will appear in column 9.

- (iv) The date on which the Sub-Registrar signs the certificate of true copy in the register-book shall be noted as the date of completion in column 10 of the fee-book.
- (v) Column 11 should show not only the volume, but also the book in which a document is registered, thus, 1, 5, *i. e.*, Book 1, volume 5 ; 4, 3, *i. e.*, Book 4, volume 3.
- (vi) In column 13 the copies and memoranda will be distinguished by the addition of the letters C and M, to the numerals representing them.
- (vii) To facilitate the preparation of the Commission Bill, the date in column 8 will be entered in red ink whenever a document is refused registration during the month in which it is presented. All other entries in this column, whether of admission or refusal, will be in black ink.
- (viii) In column 3, in the case of leases, pottas should be indicated by the letter P and kabuliyats, by the letter K, and the term of years for which the lease is given will be invariably noted.
- (ix) (In the column of "remarks" will be noted, the thana or thanas within which the property is situated.)
- (x) When a document is presented, but has to be kept pending admission to registration, columns 1-7 of the fee-book will be filled up at once. If registration of such a document is ultimately refused, the date of refusal will be noted in column 8 against the entry made in the fee book on the date of presentation, and the word "Refused" written in the column of remarks. If, on the other hand, the document is ultimately admitted to registration, the date of admission and the number of the document in the register will be noted in columns 8 and 9 against the entry made at the time of presentation, but the other columns (10-14) will be left blank. At the same time a second entry of the document will be made in its proper place in the fee-book according to the serial number of the registered document as shown in column 9. In this second entry the serial number and date in columns 1 and 2 will be the same as in the former entry. Columns 3 to 7 will be left blank, but columns 8 to 14 will be filled up as usual. Thus to give an illustration :—A document is presented on the 2nd April, its serial number in the order of presentation being 541 in column 1. The executants are not present to admit their execution, and accordingly the document is kept pending till the 15th, when they appear, and the document is admitted to registration as No. 326 in Book 1. On the 2nd April columns 1-7 will have been filled up, the number in column 1 being 541 P. ; on the 15th columns 8 and 9 will also be filled up against the entry made on 2nd April, the entries being respectively "15th April" and "326" ; and at the same time a new entry will be made in its proper place among the entries of 15th April according to the serial number in column 9 (that is below the entry for document No. 325 in Book 1) ; but in this entry a fresh serial number will not be given in column 1, but the old No. 541 will be entered, columns 3-7 being left blank.

Entries in the fee-book by whom to be made.—(xi) The entries in the fee-book shall ordinarily be made by registering officers with their own hand, and in the case of *ex-officio* Sub-Registrars they may be made by the Head Clerk. It is of the utmost importance that every entry made in the fee-book should be strictly accurate. For instance, column 10 should never be filled up until the document is actually completed. Each day's entries shall be totalled and signed by the Sub-Registrar daily.

Fees paid subsequent to the date of presentation.—(xii) When any additional fee, such as a fee under Article N of the Table of Fees, is paid on a date subsequent to that on which the document was presented, the serial number of the document as given in column 1 of the fee book shall be quoted in brackets, when the additional fee is entered in the fee-book. Moreover, the amount of additional fee paid and the date of payment shall be noted against the entry of the document in the fee book which was made on the date of presentation, in the column of remarks.

(e) The Sub-Registrars shall after examination certify on the Fee-book and Cash-book, the number of pages each register contains as follows :—“This book contains pages.” This must be done before each volume is brought into use.

103. *Additional books in district offices.*—The following additional registers shall be kept in the offices of all Registrars :—

(1) Register of appeals under section 72. (Form No. 18, Appendix VI.)

(2) Register of applications under section 73. (Form No. 19, Appendix VI.)

(3) A Bill Book. (Form No. 20, Appendix VI.)

(4) Register of special contingent expenditure in the form prescribed by Accountant-General, Bengal.

Section 20—Clause (1) of section 20 gives authority to registering officers to refuse documents in which interlineations, blanks, erasures or alterations are not attested with the signatures or initials of persons executing them. Clause (2) states that if they register such documents, they shall at the time of registering them, make a note in the register of such defects.

Initiailling corrections is almost unknown in the case of the Bengali documents. The practice only obtains in Calcutta in the case of the English documents. In documents containing alterations, etc., written in Bengali, the usual practice is to have a note or *kaiyyat* at the foot of the document in which all the defects are described. This note is copied *in extenso* in the Register-book, and Sub-Registrars seem to have the impression that when this *kaiyyat* is copied, the provisions of section 20 (2) need no longer be carried out. This is an entire misapprehension. In the first place, there is no statute or rule by which a *kaiyyat* can be made to take the place of an attestation with initials, and in the second place, when a *kaiyyat* indicating that there is a certain error in a certain line and page of a document is copied in a Register, these references to pages and lines cease to have any meaning when in the Register copy, the pages and lines are, from the very nature of things, different. If a mark was made against the particular word or words in the Register-book and a corresponding mark also made in the copy of the *kaiyyat*, that might help one to find out what word was crossed out or where the interlineation was made, but this is seldom done.

In Eastern Bengal so great importance was attached to the Register copy being an exact transcript of the original that rule 87 of Eastern Bengal rules ran as follows :—“Every copy made in the Register-books shall be an exact counterpart of the original and shall be carefully compared with it; all interlineations, blanks, erasures, or alterations, which appear in the original, shall be reproduced in the copy entered in the Register.” This would make the copy very clumsy if carried out, but to omit any references altogether errs by going to the extreme on the other side. The so-called *kaiyyat* does not satisfy a legal requirement under the Act, though it confers a certain amount of security against future interpolations. Even if corrections were attested, it does not follow that no note is to be kept in the Register book, for, in that case one could not gather from the copy in the Register any information as to the original appearance of the document. In Calcutta, where the usual practice is to initial corrections, such notes are kept, so that even if the *kaiyyat* is made to do duty for attestations with initials, still a note is necessary under section 20, clause (2). Further, the direction in that clause is clear. Sub-Registrars are bound to carry it out and there is no option or personal equation left in the matter. See rule 66 of the Registration Manual, 1912, which gives clear directions on this point, and the last sentence in clause (2), rule 98 at page

92 of the Manual, indicates that the right-hand margin of Register-books is specially reserved for this purpose. Circular No. 8 dated Calcutta the 18-12-1913.

Section 23.—A document is to be presented “within 4 months from the date of its execution” (the important words have been italicized). The word “from” is specially explained in the General Clauses Act, Section 9 (*f*), which says that when that word is used with reference to a period of time, the first day ought to be excluded and for a good reason, as when if a document is executed late on a certain day, it cannot be produced for registration on that day. Therefore, it is fair that the presentant should be given the benefit of that day.

The next important word in the clause is “month,” and this is defined in the General Clauses Act, Section 3 (*33*), to mean a month reckoned according to the British calendar. The manner in which a calendar month should be reckoned is illustrated in article 18 of the Civil Service Regulations.

The principle is this :—If a calendar month begins on the 1st of any month, it ends on the last day of that month. Therefore if it begins on the 2nd of the month, one calendar month will expire on the 1st of the next month. If it begins on the 3rd, then it expires on the 2nd, and so on. This principle has been followed in the examples given below, the first day (date of execution) being excluded as explained above :—

Date of execution.		Date on which 4 months expire.
27th February ...	...	27th June.
Last day of February		30th “
31st March ...		31st July.
29th August ...	...	29th December.
29th October ...	...	} 28th February, or 29th February, if it is a Leap year.
30th “ ...	...
31st “ ...	...

The above calculations will show registering officers how Section 23 should be worked. General Letter No. 9711. Dated 11-12-1913.

Section 51. Section 51 (*g*) of the Indian Registration Act lays down that in Book IV shall be entered all documents registered under clauses (*d*) and (*f*) of section 18, *which do not relate to immoveable property*. Many Sub Registrars are of opinion that the words italicized above, viz., “which do not relate to immoveable property” are synonymous with “which relate to moveable property”. It is of course so, so far as property goes, for the term “moveable property” as defined in section 2 (*p*) includes property of every other description except immoveable property. But documents may relate to personal service, to apprenticeship, to gift of a son in adoption (which is not an “authority to adopt”), and various other situations can be named where documents are executed in respect of matters which are neither moveable nor immoveable property. “Not immoveable” is a larger circle within which “moveable property” is a smaller circle, and the preciseness of wording as drafted by the legislature should be carefully noted. General Letter No. 9709. Dated 11-12-1913.

A certificate of sale granted by the Civil Court, affecting immoveable property situated in the Calcutta Municipality, is liable to an additional stamp duty of two per centum on the value of such property, under section 82 of the Calcutta Improvement Act of 1911.

Therefore, when an *original* sale certificate, affecting property situated in the Calcutta Municipality, granted by a Civil Court, is presented for registration, all subordinate registering officers are to follow, in regard to it, the procedure laid down in the rules framed by the Local Government under section 86 of the Calcutta Improvement Act, and instructions bearing on the same, which are contained in General Letter No. 8109, dated the 22nd December 1911. Dated 10 4 1913.

RECENT CASES.

Section 17.

A document registered in accordance with the provisions of this Act is a registered document and it is complete and valid. The law does not require that the Registration should be at the instance of or with the consent of the donor.—*Parbati v. Bajnath Pathak*, 10 A. L. J. 300.

Sec. 17.

Deeds which are mere recitals or memoranda of dispositions of property which have been previously agreed upon or made and which do not themselves operate to effect any such disposition need not be registered. Where a person made a partition of his property exceeding Rs. 1000 in value among his sons and there and then drew up a document to evidence the partition and there was no evidence to show that there was any previously completed partition—Held that the document was compulsorily registrable *Nihal Chand v. David Sassoon & Co.*, Karachi, 15 Ind. cas. 28=229 P. L. R. 1912=231 P. W. R. 1912.

Relinquishment by widow of her life-estate of the value of Rs. 100 or more, in favour of her deceased husband's reversioners requires registration under s. 17 of Act XVI of 1908. *Shahal Din v. Mussammatt Pannah Bibi*, 97 P. W. R. 1912=14 Ind. cas. 749=92 P. R. 1912.

An agreement to refer to arbitration the partition of an estate is inadmissible in evidence for want of registration. *Raghubir Singh v. Umrao Singh* 13 Ind. cas. 500.

The proviso to S. 17 cl. (d) of the Registration Act is not confined in its operation to money rent, but also applies to rent payable in grain *Sakki Reddi Appalasamyv. Pakkurti venkata sami Naidu* 11 M. L. T. 405=1912 M. W. N. 919=15 Ind. cas. 682.

A covenant in an unregistered deed, whereby the covenantor, after acknowledging his ownership of the immoveable property under a prior conveyance, agrees to pay a certain annuity to another and, in the event of default to relinquish his ownership in the property, can be enforced for payment of the annuity and for specific performance of the agreement to relinquish, but the document being unregistered no suit can be maintained on it for possession. *Karnam Parthasarathy v. Karnam Barathama*, 16 Ind. cas. 881.

A document, which embodies an agreement for reduction in the amount of rent under a previously existing registered lease, requires registration. *Ganendra Mohan Chowdhry v. Gya Prasad Tewari*, 16 Ind. cas. 52.

An agreement relinquishing certain portion of principal and interest on mortgage is compulsorily registrable and without registration such an agreement could not be said to be an acknowledgement of payment within the meaning of the exception contained in S. 17 (2) cl. 11 of the Registration Act. *Gobardhan Sahi v. Jadunath Rai*, 11 A. L. J. 253.

On the last day of partition lists of properties allotted to each co-sharer were prepared and signed by the other co-sharers. Held that these lists were compulsorily registrable under S. 17 (3). *Uttam Chand v. Ghanisham Das* 188 P. L. R. 1913=127 P. W. R. 1913.

Where the title of a person in possession of immoveable property is defective for want of registration of the deed creating that title, he must be regarded as a trespasser and possession can be recovered from him, but he is entitled to get back his exchange money. *Uttam Chand v. Basanta*, 203 P. L. R. 1913=19 Ind. cas. 236.

A decree for sale of mortgaged property is not immoveable property within the meaning of S. 17 (b), Registration Act. An assignment of such a decree is, therefore, not compulsorily registrable. Further objection to such an assignment ought to be raised when the assignee applied under O. XXI. 206 C. P. C. to get himself substituted in place of the decreeholder. *Mumtaz Ahmad v. Sri Ram*, 11 A. L. J. 815.

When a solenama refers to the subject of the claim, it becomes, when recorded, a proceeding of the court and does not require registration or stamp duty. *Ambica Charan Sher Kalibarata v. Srinath Dutta*, 19 Ind. Cas. 551 see also *Murali Dhar v. Gobind Ram*, 306 P. L. R. 1913.

A deed reciting that Rs. 200 is due on the previous mortgage and that the mortgagor has now received Rs. 55 more and has sold his rights, is a sale-deed of the equity of redemption for less than Rs. 100 and its registration is optional. *Feroze-ud-din v. Meharan*, 194 P. W. R. 1913=332 P. L. R. 1913.

In an alienation by widow the consent of the reversioner in writing is not compulsorily registrable under S. 17 cl. (d). 15 Bom. L. R. 1142.

An amalnamah granted by a landlord to a tenant provided that the rent settled should be payable from year to year, that the tenant should abide the survey and settlement, and that within a month, on executing a Kabuliyat, the tenant should take a Pattah which the landlord would grant. The intention of the parties was that, as soon as possession was taken under the document, the title of the grantee should commence. Held, that the amalnamah was an agreement to lease and not a document merely creating a right to obtain another document within cl. (d) of S. 17. of the Act of 1877. and was therefore compulsorily registrable. *Elahi Baksh v. Hukum Buksh* 20 Ind. cas. 907=18 C. W. N. 38.

Where a document is merely a receipt and a contract to sell there is no objection to its admissibility in evidence without registration. (1913) M. W. N. 995=14 M. L. T. 495.

A document containing merely an expression of an accomplished fact does not require registration but registration is necessary for a document formally declaring any one's rights in immoveable property. *Kesar Singh v. Sant Singh*, 19 P. L. R. 1914.

A document was composed, first, of lists of properties which were in possession of the different members of the undivided family before division and thus were available for division. At the end all the properties were clubbed together and the total value was stated as well as the value of each share. Then a note followed:—"In the presence of the witnesses named hereunder we divided." Below this all the three members of the family signed and the signatures of the witnesses followed beneath—Held Per Spencer J.—That the document merely declared the divided status of the family and therefore would not require registration. Per Sadasive Aiyar J. (contra) Though the document does not divide the property particularly yet it does extinguish the joint rights in immove-

able property which formerly existed. The document therefore required registration. *Ayyakutti Mankondan v. Periaswami Koundan*, 15 M. L. T. 163.

An unregistered lease deed is not admissible in evidence to prove nature of lessee's possession. *Yuruva Venkata Reddy v. Maddi Veeranna*, 15 M. L. T. 192.

A deed of adoption reserving life-estate to the widow is compulsorily registrable. *Pirsab v. Gurappa*, 16 Bom. L. R. 111.

A document which is merely evidence of an agreement to convey lands but does not create any interest in immoveable property is not compulsorily registrable and it is admissible in evidence without registration. *G. Ramobrahman v. G. Kottayya*, 21 Ind. cas. 777.

The 'term' of a lease for purposes of registration must be understood to mean the period for which the lessee is entitled to continue in possession provided he himself fulfills all the stipulated conditions. When under the terms of a lease the lessees were to remain in possession for 30 years provided they fulfilled certain condition and the lessor had a right of re-entry only on the breach of certain conditions: held that the lease was a lease for more than one year and was compulsorily registrable. *Munshi Lal v. Notified Area of Baraut*, 12 A. L. J. 219.

A document which clearly professes to be merely a memorandum (yad dasht) of a gift which has already been completed does not require registration. *Rahim Baksh v. Mussammat Budhan*, 92 P. L. R. 1914.

A transfer of a mortgage by deposit of title deeds does not require registration. For a transfer of the mortgage by the mortgagee registration is required neither under the T. P. Act nor under the Registration Act *M. G. Dwarka Dass Gobardana Dass v. O. K. Danakoti Ammal*, 15 M. L. T. 198.

Award signed by arbitrators does not cease to be awards merely because the settlement was arrived at by the parties and was also signed by them. Such documents did not require registration and the parties should not be allowed to pick holes in it. *Wasir Ali v. Mahbul Ali*, 134 P. L. R. 1914.

The term 'Composition deed' was not either in ordinary parlance or in the understanding of lawyers, limited so as to exclude an assignment in trust for the benefit of creditors, the creditors being parties and releasing their claims. Further the term "composition deed" as used in the Registration Act is intended to apply to a transfer of immoveable property and not to a mere agreement to take fractional payment of money in settlement of claims. *Chandra Shankar Pranshankar v. Bai Magan*, 16 Bom. L. R. 236.

A compromise petition is presented to court with the prayer that it be acted on as a pleading, and does not require to be registered even if it leads to the disposal of an issue in the case. In order that such a petition may be regarded as a pleading, it is not necessary to show that it was actually acted upon in the trial of the suit. *Munickammal v. Rathnamal*, 22 Ind. Cas. 35.

Sections 20 and 72.

If the sub-Registrar merely refused to take up the document for registration, no appeal lies to the Registrar against the order *Valambal Achi v. Govindasami Odayar* (1912) M. W. N. 412=15 Ind. Cas. 370.

Section 21.

• The registration of a document is not vitiated, merely by an error in the

description of the property, if the description is sufficient to identify it. *Parsotam Dass v. Putesri Pattab Narain Singh*, 11. A. L. J. 241.

Section 23.

The executant of a mortgage bond altered its date to secure registration of the document. Held that the mortgagor or his subsequent lessee would be estopped from setting up the alteration as an answer to a suit on the bond. *Gopal Chandra Chakravarty v. Surendra Kumar Roy*, 15 Ind. Cas. 469=16 C. W. N. 585.

Section 32.

Meaning of "Presented".—The word 'presented' has a technical meaning in S. 32 of the Registration Act. Where the executants are present acquiescing in the handing over of the document to the Registrar for registration, no matter by whom the physical act is performed, the document is 'presented' within the meaning of the Act. *Nathumal v. Abdul Wahid Khan*, 9 A. L. J. 362=14 Ind. Cas. 812. *Karta Kishen v. Har Narayan Chand*, 10 A. L. J. 510.

Where a Lady the executant of a bond, went herself to the Registration office in a dooli, when the document was handed over to the Registrar by her own father who held no power of attorney, duly authenticated under s. 33 of the Act, and she then and there admitted execution and receipt of consideration—held that the presentation of the document so made amounted to a proper presentation under s. 32. *Wilaiti Begam v. Fasal Husain Khan*, 9 A. L. J. 148=13 Ind. Cas. 961.

The provisions of Ss. 32 and 33 of the Registration Act of 1877 are not open to the lax interpretation that it does not really matter by whom the document is presented for registration, provided the executant appears before the Registering officer and admits execution, and the provisions of S. 87 of the Act cannot be invoked in aid of the validation of registration proceedings done in violation of the express provisions of Ss. 32 and 33. *Jambu Prasad v. Aftab Ali Khan*, 9 A. L. J. 420=34 A. 331=15 Ind. Cas. 881.

A mortgage deed was presented for registration by the husband of a pardanishin lady, who was admittedly not a duly authorised agent, to the sub-Registrar of Tahsil, Bareilly. The Sub-Registrar sent the document to the Departmental Sub-Registrar for its attestation by the executant. The Departmental Sub-Registrar went to the house of the lady and she admitted execution before him. The document was then sent back to the sub-Registrar of Thanah Bareilly, who registered it. Held, that as the husband of the lady had no authority to present the document for registration, and as the Departmental Sub-Registrar had no authority to receive the document for registration, there was no valid presentation of the deed and it had not been validly registered. *Khalil-ud-din Ahmed v. Banni Bibi*, 10 A. L. J. 440 (F. B.)=35 A. 34.

Where it is shown that prior to the registration of the document by the duly authorised official, a person, who is competent to prevent the document for registration, was present before that official assenting to the registration, the requirements of the Registration Act are sufficiently complied with. *Atma Ram v. Ugrasain*, 11 A. L. J. 99=35 A. 134.

A document was presented for registration by the son of an executant who was not authorised to present it. Subsequently a commission was issued

to a clerk of the Sub-Registrar to go to the house of the mortgagor to obtain his admission. Held that the document was not validly presented for registration. *Buldeo v. Edward Gardner*, 18 Ind. Cas. 286.

Section 47.

The Registration Act of 1871 merely enacted that a document, which purported to convey property of the value of over Rs. 100 must be registered and where the value of the property was set out in the document as Rs. 99 although it was worth more than Rs. 100 the document on the face of it was not compulsorily registrable. The transfer of Property Act now lays down that no transfer of property worth over Rs. 100 can be made except by a registered document. *Umesh Chandra Halder v. Umesh Chandra Bag*, 18 Ind. Cas. 46.

Section 48.

A the owner of a house worth more than Rs. 100 made it over to the defendant in satisfaction of a debt and put him in possession. Subsequently A sold the house by registered deed to the plaintiff who then sued for possession. Held that the plaintiff must be deemed to have had notice of defendants' right. *Maung Sit Yin v. Maung Bin*, 12 Ind. Cas. 905.

An oral agreement to sell property, even though not accompanied or followed by delivery of possession, would be protected against a subsequent registered sale-deed regarding the same property if the person claiming under the latter had in fact notice of the previous agreement. *Baldeo Prasad v. Prag Das*, 11. A. L. J. 137.

Section 49.

M executed a deed of mortgage in P's favour in 1894. In 1896 with respect to the same property M. executed a deed of sale in P's favour for Rs. 8000 and odd. On the same day when the deed of sale was executed, a document in the shape of a letter which was unregistered was written which showed that the transaction between the parties was intended to be an usufructuary mortgage and not a sale. In 1900, P sued on the usufructuary mortgage and the suit was dismissed for want of registration of the letter. M. instituted the present suit for the recovery of the same property on the ground that no property passed to P because the parties never intended the sale-deed to be decreed as a sale-deed. The lower Court decreed M's suit on condition that he should make over to P whatever money he received under the deed. Held, that the lower Court was competent to pass a decree imposing the condition which it did. Per Miller J—(Abdur Rahim J. dissenting)—Held that the letter is not admissible in evidence because S. 49 of the Registration Act forbids its admission. *Mutta Venkatachellapathi v. Pyinda Venkatachellapathi*, 23 M. L. T. 652=12 M. L. T. 579.

On the 7th April 1905 the defendants passed two money bonds for Rs. 200 each in favour of the plaintiff. Subsequently on the 3rd July 1905 a mortgage bond for Rs. 2500 was executed, whereby the debt under the bonds was extinguished. The deed of mortgage not being registered it was held that the plaintiff could sue on the amounts due on the money bonds in as much as the mortgage bond was neither a novation nor there was a merger for it, the document being unenforceable at law. *Abdul Kayam Amadajibhai v. Bahadur Vithoba*, 14 Bom. L. R. 26=13 Ind. Case 858.

Meaning of the terms 'registered' in accordance with the provisions of this Act in S. 49 and 'duly registered' in S. 50. considered. *Veerappa chetty alias Vellian chetty v. Kadireson chetty*, 24. M. L. T. 664.

Section 49.

Registration.--

The mere fact that an instrument was registered is not sufficient to affect a third person with notice of it. Where the search of a register is generally proved or admitted, there is a presumption that the party searching was acquainted with all the contents of the register. The presumption may be excluded by particular facts in a case but it can not be rebutted by the mere statement that, though a search was made, it was unsuccessful *i.e.*, the person making the search could not find the document, though it was entered in the register which he searched. *Akhoy Kumari Debi v. Kanai Lal Kundu* 16 Ind. Cas. 618.

The primary object of registration is to check forgery and provide good evidence of the genuineness of written instruments; and not to give information to third parties of transactions affecting immoveable properties *Veerappa chetty alias Vellian Chetty v. Kadiresan Chetty*, 24 M. L. J. 664.

Registration is necessary for a document formally declaring any one's rights in immoveable property and if it is not registered it is inadmissible in evidence under S. 49 of the Registration Act. *Kesar Singh v. Sant Singh*, 19 P. L. R. 1914.

An unregistered letter can not be received as evidence to show that a registered sale-deed was intended to operate only as a mortgage. Further such an unregistered letter is inadmissible in evidence to show that no title passed to the defendants under the sale deed, for that would amount to using it as evidence of a transaction affecting immoveable property. *Venkata chella pathi Garu v. Mutha Venkata chella pathi* (died). (1914) M. W. N. 178=26 M. L. J. 151.

An unregistered lease can not be used as evidence of even an agreement to lease. *Vasudeva Reddi alias Ramasami Reddi v. Nallappa Reddi*, 15 M. L. T. 220.

R executed an unregistered mortgage-deed in favour of G on Aug. 21 1894. R executed another unregistered mortgage-deed in favour of B in respect of the same property on May 30, 1896. B brought a suit for sale on his mortgage and purchased the property in execution of his own decree. His son sold the property to Bk and the latter's heir sold the full right of ownership in the property to I. the sale-deed in favour of I was registered. In a suit for sale on his mortgage by G, held that I had priority over G's unregistered mortgage. *Ishri Persad v. Gapi Nath*, 10 A. L. J. 222=34 All. 631.

R made an unregistered mortgage by way of conditional sale without possession in favour of B in 1896. G purchased the mortgaged property in execution of a simple money decree in 1905. In 1910 G sold the property to the appellants by means of a registered deed, and the appellants in their turn sold a portion of it back to G by a registered deed. R brought a suit for foreclosure upon his mortgage. Held, that the appellants were entitled to rank in priority over the unregistered mortgage in favour of R. in as much as they had no notice of it, held also that in respect of the re-sale

to him G was entitled to priority over R because he had no notice of the mortgage; and he was bound by it as auction purchaser, as there was no conflict between the mortgage and his purchase and he was not protected by S. 50 of the Registration Act. *Ram Lal v. Bachcha Singh*, 10 A. L. J. 114.

Registration is an act of the Registrar and being an act of an administrative character, any error committed by him may be regarded as an error of procedure. *Veerappa Chetty alias Vellians Chetty v. Kadisesan Chetty* 24 M. L. J. 664.

Section 50.

A registered document takes effect as regards the property comprised therein against an unregistered document relating to the same property; but the unregistered one is neither invalidated nor are the rights of the mortgage there under altogether extinguished. *Dhan Pal Singh v. Bhab Singh*, 11 A. L. J. 291.

A mortgaged some land in usufructuary mortgage in 1850 to B for Rs. 75. In 1877 A sold the equity of redemption to B by an unregistered deed of sale. E purchased the land in 1909 from the heirs of A by a registered deed of sale and sued for redemption. He was met with the plea that as B had purchased the equity of redemption, there was nothing to redeem. Held that as B was in possession it was E's duty to enquire as to the nature of his possession and so the subsequent registered sale of the land to him could give him no priority over the unregistered purchase made by B so long ago as 1877. *Umesh Chandra Halder v. Umesh Chandra Ray*, 18 Ind. cas. 46.

A bonafide purchaser under a registered deed without notice of any encumbrance created by a previous unregistered bond, has a right to hold the property and the unregistered mortgage can not be enforced against him. *Sher Singh v. Durgupal*, 18 Ind. cas. 724.

S. 50 of the Registration Act has no application where the person who claims title under the subsequent registered document has notice of the title created by the prior unregistered document. The burden lies upon the person who alleges such knowledge or notice to aver it in his pleadings and to establish it. If a purchaser or mortgagee has notice that the vendor or mortgagor is not in possession of the property, he must make enquiries of the person in possession as to what his rights are and if he does not choose to do it, then whatever title he acquires will be subject to the title or right of the tenant in possession. *Magu Brahma v. Bholi Dass*, 20 Ind. cas. 195.

Section 50.

The effect of S. 50 read with S. 54 of the Transfer of Property Act is to make the later registered instrument prevail over the earlier unregistered instrument notwithstanding that there may have been delivery under the earlier instrument. S. 54 of the T. P. Act. virtually abolished the optional registration in the case of sales in which a document was actually executed. *Mohamed Kasim Ali Sahab v. Mir Gulam Ali Sahab*, (1914) M. W. N. 55.

Section 52.

Where there was no signature of the executant below presentation endorsement but his signature appeared below execution endorsement, it was held that the provisions of S. 52 (1) of the Registration Act had been sufficiently

complied with and the document had been duly 'presented'. *Kabul Singh v. Hari Narayan* 11 A. L. J. 617.

Section 77.

A Registrar having refused to order the registration of a document on the 29th Nov., the plaintiff instituted a suit for its registration under S. 77 of the Act of 1877, on the 2nd Jan. following, the Court being closed on the 29th and the following days until it reopened on the 2nd January. Held, that in view of previous decisions of the Court and of the legislative sanction impliedly accorded to the rule there laid down by the General clauses Acts of 1887 and 1897, the suit should be held to have been properly instituted. Per Chatterji J—S. 5 of the Limitation Act has no application to suits under S. 77 of the Registration Act. *Ahad Baksh v. Sheikh Bahar Ali*—16 C. W. N., 721=14 Ind. cas. 173.

(See also *Matabhar Molla v. Sasi Bhusan Ghatak* 16 C. W. N. 20=12 Ind. cas. 33.

Sections 36, 73, 77.

An appeal against an order of refusal by Sub-registrar to register a deed was dismissed by the Registrar. It appeared that the summonses issued by the Sub-Registrar to the executants had been returned unserved and the refusal was due to the non-appearance of the executants. Held that a suit for registration was maintainable in a civil Court the refusal not being based upon denial of execution. *Khadim Husain v. Bharat Singh* 9 A. L. J. 234=34 A 315=14 Ind. cas. 433.

The refusal of a Registrar to register document because no evidence has been adduced before him comes within the purview of S. 77 of the Act and a civil suit is maintainable to enforce the registration. Observation at pp. 406 and 407 of I. L. R. All., held obiter.—*Abdul Hakim Khan v. Chandua*, 9 A. L. J. 4=13 Ind. Cas. 83=34 A 165.

Where registration is refused for not summoning witnesses under S. 36 of the Act it was held that a suit to have the document registered would be maintainable under S. 77—*Kayat Ali v. Muhammad Hadiq*, 9 A. L. J. 756=16 Ind. Cas. 97.

When a Plaintiff's case has been struck off by the Registrar and on his application for review the case was restored and heard but the final order was an order of refusal to register—held that the Plaintiff could institute a suit in the Civil Court under S. 77 within 30 days from the date of this final order and his suit would not be barred by limitation. *Shaikh Sajed v. Saroda Prosad Chowdhury*, 17 C. W. N. 585.

The execution of a document did not appear before the Sub-Registrar, who refused to register the document. The person in whose favour the document was executed then moved the Registrar. But the application was described as one under Ss. 71 and 72 of the Registration Act although it was one under S. 73 and was accompanied by a copy of the reasons recorded by the Sub-Registrar under S. 71 for refusing to register and was verified as regard by S. 73. The facts were all stated in the application. The application was dismissed by the Registrar so a suit was brought under S. 77 for having the document registered. Held that the suit was maintainable. The scope of a suit under S. 77 of the Registration Act depends upon the proved

or admitted facts and circumstances, and not upon the erroneous mention of a section of the statute in an application to the Registrar. *Bechu Sahu v. Syed Ali Rasul*, 16 Ind. Cas. 614.

For the purposes of S. 77 the period of 30 days has to be reckoned, not from the time when the judgment is pronounced but from the time when the decree has been actually drawn up and signed by the Judge. The Judge should put after his signature the date on which he signs it under Or. XX. 7 Civ. Pro. Code *Muthiq Chetty v. Suppan Servai*, 14 M. L. T. 160.

S. 77.

The provisions of the Limitation Act are inapplicable to a suit provided for by s. 77 of the Registration Act See also sec. 10 of the General clauses Act 1897,—Where on the executants' failure to appear after being twice summoned, the plaintiff asked that the Sub-Registrar should register the instrument or return it to him, and the Sub-Registrar returned the document with an endorsement that it was returned at the request of the party presenting it—held, that this may be taken to be an order refusing to register. *Subramania Pattar Karikar son of Sivarama Pattar Karikar v. Edathil Madathil Kristna Iyer* (died) 15 M. L. T. 233=26 M. L. J. 307.

S. 87.

May not be sufficient to validate an act of registration violating any express provision of the act prohibiting it in certain circumstances or any condition expressly laid down as necessary before the act can be done, but there is no reason why it should not cover any defect where there is nothing in the Act indicating that it is regarded as of a radical character making the registration ineffective. *Veerappa Chetty alias Vellian Chetty v. Kadiresan Chetty* 24 M. L. J. 664.

S. 90.

Leases of land entered into in the ordinary way of business by the Government are not ejusdem generis with "sanad," "inams" and other title-deeds mentioned in S. 90 (d) of the Registration Act and are not exempted as such from Registration under s. 17 of the Act *Munshi Lal v. Notified Area of Baraut*, 12 A. L. J. 219.

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